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2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Case No. 05-44481

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6 In the Matter of:

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8 DELPHI CORPORATION,

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10 Debtor.

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13 (A.M. SESSION)

14 U.S. Bankruptcy Court

15 One Bowling Green

16 New York, New York

17

18 May 24, 2006

19 9:04 a.m.

20

21 B E F O R E:

22 HON. ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

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2 MOTION to Authorize Motion For Order Under 11

3 U.S.C. Section 1113(c) Authorizing Rejection

4 Of Collective Bargaining Agreements And Under  
5 11 U.S.C. Section 1114(g) Authorizing  
6 Modification Of Retiree Welfare Benefits filed  
7 by John Wm. Butler Jr. on behalf of Delphi  
8 Corporation.

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24 Transcribed By: Esther Accardi

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1 P R O C E E D I N G S

2 THE COURT: Please be seated. Okay

3 we're on the record in Delphi Corporation.

4 MR. BUTLER: Your Honor, good

5 morning. Jack Butler from the law firm of

6 Skadden, Arps, Slate, Meagher & Flom LLP, here

7 with my colleagues from O'Melveny & Myers

8 law firm representing the debtors in

9 connection with this continued hearing on the

10 debtor's motion under Section 1113 and 1114 of

11 the Bankruptcy Code. Your Honor before

12 proceeding with the first of today's witnesses

13 continuing the debtor's direct case. Mr. John

14 Sheehan, the debtor's chief restructuring

15 officer is the next witness slated. Counsel

16 for General Motors Corporation asked if they

17 might address the Court.

18 THE COURT: Okay. This is about the

19 request they made for an adjournment?

20 MR. TANENBAUM: Yes, Your Honor.

21 THE COURT: Okay. That's fine. I

22 read the -- obviously that request plus the

23 letters in response by the debtors, the

24 creditor' committee and the equity committee

25 so you should assume that.

8

1 MR. TANENBAUM: Good morning, Your  
2 Honor, Jeffrey Tanenbaum from Weil Gotshal &  
3 Manges representing General Motors  
4 Corporation. Yesterday, Your Honor, General  
5 Motors sent to the Court, with copies to the  
6 parties in this proceeding, a letter urging  
7 the adjournment of this 1113, 1114 motion.  
8 Having observed the initial phase of these  
9 hearings and the attended time and expense  
10 related to it, there is no doubt that the  
11 focus at this moment and the only focus should  
12 be on negotiation, not litigation. As the  
13 Court and all parties will agree, General  
14 Motors plays an integral role in these Chapter  
15 11 cases and in the debtor's ultimate  
16 corporate transformation. Whether by  
17 implications through the now infamous benefit  
18 guaranty, the so-called General Motors  
19 consensual proposal, or the incredibly  
20 intricate negotiations related to the wind-  
21 down and closure, sale or continuation of the  
22 debtor businesses, as exemplified in part by  
23 the special attrition program, General Motors  
24 will play a major part in the contemplated  
25 success of these Chapter 11 cases. How we

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1 achieve that end is what General Motor's  
2 request is all about. It should be clear to  
3 the Court for better or worse and the  
4 livelihood and financial well being of  
5 thousands of employees, both hourly and

6 salary, is at stake. Tensions and emotions  
7 run very high. One must not, and cannot,  
8 ignore the long history of union negotiations  
9 that predate these cases. The wages and  
10 benefits achieved by these unions and the  
11 necessary modifications that must now be made  
12 to the CBA's which will undue many of these  
13 achievements. Nobody, including the debtors,  
14 suggest that it's an easy for pill to swallow.  
15 However, history and emotion of what we must  
16 live with, and the 1113, 1114 process,  
17 represents a delicate balance between  
18 utilization of the power of contract rejection  
19 granted to the debtors in respective  
20 collective bargaining agreements, and the  
21 clear inducement to negotiate that is an  
22 integral part of the statutory framework.  
23 General Motors strongly suggests that months  
24 of proposals or non-proposals, negotiations or  
25 non-negotiations, dozens of depositions of

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1 expert and non-expert witnesses and three days  
2 of hearings have more than adequately set the  
3 stage for the ultimate negotiations that must  
4 occur and be concluded one way or another.  
5 However, rather than agree to a hiatus in  
6 these proceedings, to allow the unions,  
7 General Motors and itself to attend to the  
8 task at hand, which General Motors  
9 respectfully submits a twelve-day recess does  
10 not qualify for, the debtors have chosen a



11 dual track. Including the high risk stakes of  
12 win or loss in Court. Which in the end will  
13 empower Delphi or the unions or both with  
14 weapons that will serve simply to place  
15 additional unnecessary pressure on a situation  
16 which both the unions and General Motors  
17 already recognize is at a critical stage. The  
18 question's been raised, why can't litigation  
19 and negotiation occur at the same time? The  
20 answer is simple. They can, but they  
21 shouldn't. As stated earlier, the global  
22 transformation in negotiations including the  
23 related 1113, 1114 issues are intricate,  
24 extraordinary complex and are requiring daily  
25 attention by General Motors. The results of

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1 the attrition program are integral to the  
2 finalization of the ultimate road map to deal  
3 with many of the issues at hand. The fact is  
4 that the overhang of these proceedings is  
5 chilling the negotiations. Particularly from  
6 the perspective of the unions who are not  
7 dealing with invisible shareholders but real  
8 people, with real families and real issues who  
9 see and react to the positions taken and  
10 statements made by the debtors in these cases.  
11 And again, for better or worse, we act  
12 emotionally to them. General Motors has not  
13 said the debtor should be required to pursue a  
14 single track. It has requested them to do so  
15 for the foregoing reasons. Mr. Butler's

16 letter states that the Court has rejected the  
17 contention that the parties might be better  
18 served single-tracking these negotiations.  
19 The Court has clearly expressed its desire  
20 that the parties negotiate in good faith.  
21 General motors assumes the Court will be happy  
22 to forego these proceedings with the crowd of  
23 high paid lawyers involved in order to force  
24 the negotiations with periodic progress  
25 reports to the Court. Hearings could always

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1 resume immediately in the absence of clear  
2 progress. In light of the statutory deadline  
3 for ruling on this motion, General Motors  
4 appreciates the Court cannot force the parties  
5 to stand down. We find it unfortunate that  
6 the debtors have taken the position they have  
7 today. Nonetheless, General Motors stands  
8 prepared to continue to work toward the goal  
9 of achieving a negotiated resolution of all  
10 issues. Finally, although general motors, has  
11 restrained itself at almost every opportunity  
12 to respond to the allegations and innuendos of  
13 the creditors' committee in the many pleadings  
14 it has filed with this Court, including its  
15 response to the 1113, 1114 motion itself, GM  
16 is compelled to comment on that letter.  
17 First, in its opening paragraph, the committee  
18 blatantly misstates that GM was suggesting to  
19 the Court a 60-day adjournment of the motion  
20 to reject contracts. GM has made no such

21 requests in its letter and the issue for today  
22 relates solely to the 1113, 1114 motion.  
23 Second, to suggest that the letter sent on  
24 behalf of General Motors to this Court,  
25 requesting an adjournment of these proceedings

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1 on the consent of the parties, is the best  
2 evidence of the extraordinarily controlling  
3 and dominant role General Motors has played in  
4 Delphi's affairs and purports to dictate for  
5 Delphi whether the hearing should be allowed  
6 to proceed is absolutely ludicrous and  
7 disingenuous. Having attacked General Motors  
8 good faith intentions, having committed to  
9 object to any claims General Motors may  
10 ultimately file, and having gone on record as  
11 having valid and substantial claims against  
12 General Motors, the committee questions why it  
13 should not be invited to the negotiating table  
14 to deal with General Motors, Delphi, the UAW  
15 and the other unions. Your Honor, has ruled  
16 that it is inappropriate for non-debtor, non-  
17 union parties to intrude upon the 1113, 1114  
18 negotiations. GMC's has no further reason to  
19 comment on this particular issue. Your Honor,  
20 the debtors have voiced their position on the  
21 matter at hand. General Motors thanks the  
22 Court for the opportunity to express its views  
23 on the process. And as I've stated earlier,  
24 Your Honor, my clients stands prepared to  
25 continue to participate actively in the

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1 negotiation process to facilitate a resolution  
2 of the issues at hand.

3 THE COURT: Okay. Well it's  
4 normally my practice to grant an adjournment  
5 when the parties agree to an adjournment.  
6 That's obviously not the case here. And  
7 given, as you eloquently noted, the delicate  
8 balance under 1113, I'm going to defer to the  
9 sort of the collective judgment of the debtors  
10 and creditors' committee and the equity  
11 committee in not agreeing to an adjournment.  
12 My sense in looking at those letters in  
13 response to GM's letter was that under perhaps  
14 not dramatically different circumstances, they  
15 might agree to an adjournment. For example,  
16 if there was a meaningful or a tangible  
17 proposal that set a real framework for  
18 negotiations where there could be progress  
19 reports, as you noted this morning, to see if  
20 that framework was working to structure  
21 negotiations, then I think that, at least  
22 reading between the lines in the parties  
23 response to the adjournment request, they  
24 might well agree to an adjournment and I might  
25 pressure them, you know, to an adjournment.

15

1 You're also, I think, correct that these

2 issues are intricate. Even more intricate  
3 than the normal Section 1113 issue because of  
4 GM's involvement. And it strikes me that one  
5 key perhaps to putting this on a single track  
6 approach as opposed to a dual track approach  
7 where people are litigating and negotiating at  
8 the same time would be to work out, literally,  
9 a process framework of issues to be addressed  
10 in sequence so that the parties in interest no  
11 that this is all leading to an overall  
12 approach. And, perhaps, if that were coupled  
13 with some movement on an initial issue, there  
14 might be a real basis for an adjournment to  
15 see if we could move along a path. But, I  
16 think, people need to be assured that there is  
17 some structure to the process to move off of  
18 litigation.

19 MR. TANENBAUM: Your Honor, the  
20 request for the adjournment and the letter,  
21 albeit very simple, made it clear that within  
22 30 days it was the expectation that the  
23 parties return to the Court to indicate the  
24 status of progress. I understand Your Honor's  
25 argu --

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1 THE COURT: No. No, that's fine. I  
2 just think that before I put off hearings I  
3 think we need a little more than that.

4 MR. TANENBAUM: No, Your Honor, I  
5 meant that it was going to continue. I don't  
6 disagree with Your Honor that having a

7 stricter framework to the negotiations  
8 certainly should be part of the process, no  
9 doubt about that. Because we're really  
10 testing the good faith intentions of the  
11 party. And General Motors is not suggesting  
12 that that doesn't make sense in light of the  
13 situation. What we're dealing with here is a  
14 desire to reach an endgame at some point  
15 sooner rather than later, which is fine. I  
16 think the problem that we're indicating here  
17 is that the overhang of the these proceedings  
18 is having a negative effect, whether people  
19 want to admit it or not. And because of the  
20 intricacy of the circumstances, that result is  
21 not going to prove fruitful or helpful at end.  
22 Because it's just going to prove to a load  
23 weapons. But I don't disagree with Your Honor  
24 that having a clearer framework and having a  
25 guideline as to how the negotiations can and

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1 should continue makes sense.  
2 THE COURT: Okay. The parties are  
3 well represented. Including I think by their  
4 business representatives. They're not all  
5 here and I would urge them to continue to work  
6 but not wasting any days and see if we can get  
7 to the point where the parties are reasonably  
8 assured that this process can be put on hold  
9 subject to periodic status reports while they  
10 bring in extra resources being on the senior  
11 people to implement a negotiated solution.

12 The only other thing I'd say is that clearly  
13 negotiations between the debtor and the unions  
14 are just that, between the debtor and the  
15 unions. When GM gets involved though, as is  
16 clear from the various positions by third-  
17 parties to this motion under 1113 and 1114,  
18 most of whose positions are really geared to  
19 the implication of the GM claims whether its  
20 Appaloosa or others taking that position. I  
21 think, and this is no surprise I'm sure to  
22 you, that their views are important to me and  
23 I'm sure important to the debtors, and  
24 consequently, ultimately important to GM. And  
25 I'm sure GM has been advised of the process in

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1 bankruptcy court on those types of issues.  
2 You either hear about their views now or you  
3 hear about them later and it's often better to  
4 keep them in the loop.

5 MR. TANENBAUM: We're hearing about  
6 them on a regular basis.

7 THE COURT: I'm sure you are. All  
8 right. So, I think enough said on that point.

9 MR. TANENBAUM: Thank you, Your  
10 Honor.

11 THE COURT: And we'll proceed unless  
12 Mr. Simon, you're rising on something?

13 MR. SIMON: Your Honor, I rise not  
14 to -- Bruce Simon, Cohen, Weiss & Simon for  
15 the UAW, I rise not to suggest that you change  
16 course. But simply so that some comments that

17 you made which indicate to me perhaps a full  
18 appreciation of the nuances and delicacy of  
19 the bargaining do not remain uncommented upon.  
20 Most specifically, your suggestion that a  
21 framework and an ordering of the issues in a  
22 logical way would be perhaps of some  
23 assistance in arranging for an adjournment of  
24 this proceeding. Please understand that from  
25 the UAW's point of view, we believe that there

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1 is, in fact, an agreement between the parties  
2 as to the process to follow. That was agreed  
3 upon, that will be testified to, and that to  
4 the extent you've been told to the contrary,  
5 we want to make it clear we do not share that  
6 view of the world. We are surprised. We are  
7 disappointed in the denigration of the  
8 attrition program, most recently expressed by  
9 Delphi, certainly contrasted with the  
10 glorification of that result that accompanied  
11 its release. We continue to believe that the  
12 process agreed upon by General Motors, Delphi  
13 and the UAW to deal with these issues in a  
14 step process -- a three-step process was  
15 correct, that the attrition program was  
16 evidence of its success and that it was the  
17 filing of this motion two days later by Delphi  
18 that called that momentum and that significant  
19 progress to a screeching halt, put it into the  
20 courtroom instead of at that process framework  
21 agreement where it belonged. And we continue



22 to believe that the myth of a two-step process  
23 while possible in the academic or in the  
24 Harvard Business case study view of the world,  
25 in the real world, of Section 1113 and the

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1 real world of restructuring the automobile  
2 industry in the country, the notion that we're  
3 going to be able to litigate on Wednesday's  
4 and Friday's and negotiate on Monday's and  
5 Tuesday's is absurd. Especially when there's  
6 a meeting two days ago and the meeting shows  
7 up in a declaration by a Delphi witness filed  
8 in the Court yesterday.

9 THE COURT: Well that's part of --

10 MR. SIMON: That is not going to  
11 produce.

12 THE COURT: That's part of the  
13 process I'm afraid. And if you want to talk  
14 about the real world you could look at what  
15 happened in Northwest and in Delta and in  
16 numerous other cases. And I'm sure --

17 MR. SIMON: Your Honor, we were  
18 there.

19 THE COURT: I know.

20 MR. SIMON: Okay.

21 THE COURT: I know you were there.

22 And so I know that parties are able to  
23 negotiate while they litigate. It's harder, I  
24 appreciate that, there's more pressure.  
25 There's more pressure on all the parties

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1 including GM. And I just repeat what I said  
2 before, I urge the parties to put some  
3 detailed process points in place. If they  
4 want to follow the framework that you said  
5 they were following. I encourage them to do  
6 that. I just want them to move forward.

7 MR. SIMON: Your Honor, I just --  
8 sorry.

9 THE COURT: So I think that's --  
10 that's probably enough said on that point.

11 MR. SIMON: Just a word on Delta and  
12 Northwest. As difficult and complex as those  
13 matters were, they involved a sewer company  
14 and they involved a similar workforce.

15 THE COURT: Right.

16 MR. SIMON: If there's one thing  
17 that I believe this case presents that is  
18 unique in the annals of Section 1113, it is  
19 that General Motors as the absolute sine qua  
20 non of any resolution is there. That makes  
21 this enormously complicated. Well beyond the  
22 interesting and difficult cases of Northwest  
23 and Delta and a dozen others that I could to  
24 Your Honor about.

25 THE COURT: Well, I agree.

22

1 MR. SIMON: This is extremely  
2 generous.

3 THE COURT: But on the other hand,

4 one thing that I think we all agree upon -- I  
5 hope at least is that the people running GM  
6 are guided by logic, reason and economics and  
7 not by emotion. So I think they can see the  
8 risks and the rewards and move ahead.

9 MR. SIMON: Your Honor, so is the  
10 UAW. I did --

11 THE COURT: I agree. I agree.

12 MR. SIMON: I sat there when the  
13 notion of emotional response in dealing with  
14 issues and I --

15 THE COURT: No, no. I just talked  
16 about the distinction which is GM.

17 MR. SIMON: You Honor was clear but  
18 Mr. Butler was not.

19 THE COURT: I agree with you  
20 completely. The unions are very well  
21 represented. Their management are hard-headed  
22 business people, that's why they were elected.  
23 And so I trust that they'll negotiate too.  
24 But the one distinction you made between the  
25 other cases where you had the people of GM.

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1 But I think we can all agree, or at least I  
2 hope, that they're not as hard-headed as the  
3 people of GM and will understand the  
4 exigencies caused by moving ahead with  
5 litigation and put something tangible on the  
6 table.

7 MR. SIMON: But I believe its  
8 because they are aware of the exigencies of

9 litigation as are we, that the suggestion has  
10 been made to Your Honor, made to Delphi,  
11 rejected by them, rejected by what I think was  
12 an over-the-top response by the unsecured  
13 creditors' committee that while they bemoan  
14 the fact of litigation as opposed to  
15 negotiations they press forward on litigation.  
16 Thank you, Your Honor.

17 THE COURT: Okay. All right.  
18 Should we move ahead with Mr. Sheehan.

19 MR. BUTLER: Thank you, Your Honor.  
20 Your Honor, I'd like to call for cross-  
21 examination John D. Sheehan, the company's  
22 chief restructuring officer in connection with  
23 moving into evidence his declarations which  
24 are Exhibit's 5 and 6 to the trial record.  
25 (The Sheehan Declaration was hereby received

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1 as Debtor's Exhibit 5 and 6 for  
2 identification, as of this date.)

3 THE COURT: Okay.

4 MR. BAUMSTEIN: Good morning, Your  
5 Honor. Doug Baumstein on behalf of the ad-hoc  
6 committee of equity holders. In Mr. Sheehan's  
7 declarations, he testifies about the financial  
8 condition of Delphi. He has an entire section  
9 of the declaration entitled "Delphi cannot  
10 restructure without modifications to its labor  
11 agreements." The implication of theses  
12 sections is clearly that they need to move  
13 now. As you're aware, it is the ad hoc

14 committee's belief that moving now may not be  
15 in the correct business judgment of debtors.  
16 And we think that the fact that we were not  
17 allowed to depose Mr. Sheehan on those issues  
18 is important. But perhaps, most importantly,  
19 in paragraphs 92 and 93 of Mr. Sheehan's  
20 declaration, he states that equity will be  
21 wiped out as a result of the, and I quote,  
22 "direct and indirect claims against Delphi on  
23 account of the non-competitive legacy  
24 liabilities and burdensome restrictions under  
25 current U.S. labor agreements which are direct

25

1 claims against the U.S. parent holding  
2 company." As Your Honor is also aware, it is  
3 the ad hoc committee's belief that as of now  
4 there are no direct claims there and they  
5 would be incurring claims as a result. And  
6 both the calculation of those claims and the  
7 business judgment, with respect to the  
8 incurrence of those claims at this time, we  
9 believe are central issues to our objections  
10 to this motion right now. Accordingly, we  
11 believe that Mr. Sheehan's declaration should  
12 not be admitted into evidence because we were  
13 not given an opportunity to examine him in  
14 advance of trial.

15 THE COURT: All right. Well, again,  
16 this is the same issue that has arisen with  
17 regard to other witnesses and was the subject  
18 of an earlier chambers conference with regard

19 to discovery by Appaloosa over and above the  
20 agreements and a discovery schedule reached  
21 between the unions and the debtor. At that  
22 time I said that we would not have another  
23 deposition of Mr. Sheehan, unlike the expert  
24 testimony by the claims analyst that we had  
25 during the last session, which I believe was

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1 not particularly pertinent to Appaloosa's  
2 objection. Here Appaloosa had the opportunity  
3 and he wanted extensively to depose Mr.  
4 Sheehan in connection with the motion to  
5 appoint an equity committee, which is exactly  
6 what paragraph 93 addresses. And, in my view,  
7 that deposition which occurred in a matter of  
8 weeks before the deposition that you would  
9 have taken again, was sufficient.  
10 Particularly given the issues involved. So,  
11 I'll deny your request.

12 MR. BAUMSTEIN: Thank you, Your  
13 Honor.

14 (Witness sworn in.)

15 THE COURT: Just for the record  
16 would you spell your name?

17 MR. SHEEHAN: John J-O-H-N, Sheehan  
18 S-H-E-E-H-A-N.

19 MR. KENNEDY: Good morning, Your  
20 Honor. Tom Kennedy for the IUE-CWA. First,  
21 let me note that the order of union cross  
22 examination of Mr. Sheehan will be first the  
23 IUE-CWA, then the Steel Workers, the IBEW, the

24 Operating Engineers and then the UAW.

25 CROSS EXAMINATION BY

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1 MR. KENNEDY:

2 Q. Good morning, John.

3 A. Tom.

4 Q. John, when did you start at Delphi?

5 A. I began my career at Delphi on July 1,  
6 2002.

7 Q. What was your initial position with  
8 them?

9 A. My initial position was as the chief  
10 accounting officer and controller.

11 Q. And how long did you hold that title?

12 A. I continue to hold that title today.

13 Q. And at some point you were also made  
14 chief restructuring officer?

15 A. That's correct.

16 Q. And when was that?

17 A. I was named vice president and chief  
18 restructuring officer on October 8, 2005.

19 Q. John, am I correct that Delphi is  
20 organized into three sectors?

21 A. We have organized our operating  
22 divisions into three sectors, that's correct.

23 Q. The first is electrical, electronics and  
24 safety. The second is dynamics propulsion,  
25 thermal and interior. And the third is

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1 automotive holding groups. Is that correct?

2 A. That's correct.

3 Q. And each of those sectors has one or  
4 more operating divisions?

5 A. That's correct.

6 Q. Is it also correct that the electrical,  
7 electronics and safety sector is Delphi's most  
8 profitable and fastest growing business  
9 sector?

10 A. That's correct.

11 Q. And that electrical, electronics and  
12 safety sector itself has three separate  
13 divisions?

14 A. That's correct.

15 Q. And those divisions are Delphi,  
16 Electronics and Safety, Delphi Packard  
17 Electrical Systems and Delphi Product and  
18 Service Solutions, correct?

19 A. Yes, sir.

20 Q. Now the electronics and safety division  
21 of the electrical and electronics and safety  
22 sector had positive operating income of 222  
23 million dollars in 2005, correct?

24 A. Without looking back at my declaration,  
25 I believe that's correct.

29

1 Q. Well it may be useful, John, if you did  
2 take out Exhibit 5, which is your initial  
3 declaration in this case. And I'm referring  
4 you to paragraph 14.



5 A. I agree.

6 Q. And that operating income of 222 million  
7 dollars included a 130 million dollar profit  
8 for that division in 2005, correct?

9 A. That's correct, for North American  
10 operations.

11 Q. I'm sorry?

12 A. For the North American operations,  
13 that's correct.

14 Q. And under the current labor agreements,  
15 without any change used in Delphi's steady  
16 state scenario for 2006, that division would  
17 still have operating income of 104 million  
18 including positive operating income of 56  
19 million in its North American operations. Is  
20 that also correct?

21 A. Yes, sir.

22 Q. Now, how many North American  
23 manufacturing plants are there in the  
24 electronics and safety division of the  
25 electrical, electronics and safety sector?

30

1 A. Just ask your question again, if you  
2 could, please? Sorry.

3 Q. Sure. Looking at that electronics and  
4 safety division that's going to show under the  
5 steady state scenario, operating income of 56  
6 million dollars in its North American  
7 operations, how many manufacturing plants are  
8 there in the North American operations in that  
9 division?

10 A. I'm not -- I'm not aware of how many  
11 manufacturing facilities the electronics and  
12 safety division has in North American total.  
13 Q. Do you know of any of them?  
14 A. Do I know of any of them?  
15 Q. Yes.  
16 A. Yes, I do.  
17 Q. How about Kokomo, for instance?  
18 A. That's in North American, that's  
19 correct.  
20 Q. And is it also in the electronics and  
21 safety division?  
22 A. Yes, sir.  
23 Q. And that division showing that profit --  
24 some of that profit is generated from the  
25 Kokomo plant, correct?

31

1 A. No, I don't believe so.  
2 Q. Okay. Is it accurate to state that even  
3 in this profitable division Delphi has  
4 proposed the same reduced labor contract terms  
5 that are being proposed for its unprofitable  
6 divisions?  
7 A. That is correct.  
8 Q. Have you calculated how much more profit  
9 than the 130 million dollars that was made in  
10 2005 in the electronics and safety division.  
11 Delphi would have made if the wages and  
12 benefits being paid in 2005 were equivalent to  
13 the competitive wage scenario?  
14 A. How much profit the electronics and

15 safety division --

16 Q. Yeah.

17 A. I don't believe that we have calculated

18 the -- or broken down the competitive

19 benchmark scenario by division. We have done

20 that at the corporation level as a whole.

21 Q. Would you agree with me that the profit

22 or loss in a particular division was not a

23 factor for Delphi in designing the proposals

24 that you've provided to the unions for changes

25 in their collective bargaining agreements?

32

1 A. Yes, I would agree with that.

2 Q. Now, the second division in the

3 electrical -- electronics and safety sector is

4 Delphi Packard. Are you aware that Delphi

5 Packard operates three manufacturing sites in

6 the United States? You might look at

7 paragraph 15 of your declaration.

8 A. Yes, sir.

9 Q. Those three sites are Brookhaven,

10 Mississippi, Clinton, Mississippi and Warren,

11 Ohio, isn't that correct?

12 A. That's correct. They're outlined in

13 paragraph 23.

14 Q. And all three of those sites are

15 represented, for purposes of collective

16 bargaining, by the IUE CWA, correct?

17 A. I believe that's correct.

18 Q. In fact, are you aware of the reality

19 that 60 percent of IUE CWA represented Delphi

20 employees work in the Packard division?

21 A. Well, I was not aware of the specific  
22 percentage that -- I am aware that a good  
23 portion of our IUE represented workforce is in  
24 the Packard division.

25 Q. Now, in 2005 the Brookhaven, Mississippi

33

1 plant that the IUE CWA represents in the  
2 Packard division had positive operating income  
3 of 31 million dollars, correct?

4 A. Yes, sir.

5 Q. And the proposal Delphi has made to the  
6 IUE would be equally applicable to the  
7 Brookhaven, Mississippi plant with positive  
8 operating income, as it is to any plant with  
9 negative operating income, correct?

10 A. That is correct.

11 Q. Now, have you calculated how much more  
12 operating income, above the 31 million that  
13 was earned in 1980 -- excuse me, in 2005,  
14 Delphi would have earned if the competitive  
15 wage scenario had been in place in 2005 at  
16 Brookhaven?

17 A. For the same reasons I described a few  
18 moments ago, no we have not.

19 Q. Now, I take it that under the steady  
20 state scenario the Packard operating division  
21 in 2006 is projected as undergoing a 265  
22 million dollar operating loss in its North  
23 American operations, is that correct?

24 A. That's corr -- to the North American

25 Operations, that's correct.

34

1 Q. In that steady state scenario, under  
2 which that 265 million dollar operating loss  
3 is calculated, assumes an operating loss, for  
4 Delphi as a whole, of 8.1 billion dollars  
5 through 2010, correct?

6 A. Yes, sir.

7 Q. Now, as a chief accountant and  
8 comptroller in 2005, for Delphi, did you  
9 participate in the refinancing that Delphi  
10 underwent in 2005?

11 A. I did. I was also, between March 4 of  
12 2005 and October 8, 2005, the acting chief  
13 financial officer of the company. And in that  
14 capacity was -- or led the refinancing of the  
15 company.

16 Q. Okay. And in the course of that  
17 refinancing, did Delphi prepare a base case to  
18 present to lenders?

19 A. We did.

20 Q. Am I correct that the amount of  
21 refinancing that Delphi underwent in 2005 was  
22 approximately 2 billion dollars?

23 A. Approximately I believe it was 2.5  
24 billion dollars -- or 2.8, excuse me, 2.8  
25 billion dollars.

35

1 Q. And the closing on this refinancing was

2 in May of 2005?

3 A. No, sir.

4 Q. When was it then?

5 A. I believe it was in June 2005.

6 Q. Did the base case that was created for  
7 purposes of this refinancing, set forth  
8 operating income and net projections for the  
9 years 2006 through 2010?

10 A. No, I do not believe it did.

11 Q. Did it contain any projections of  
12 financial performance for years after 2005?

13 A. Yes, it did.

14 Q. And what were those?

15 A. I believe that it projected the years  
16 2006 and 2007.

17 Q. Did the base case include a projection of  
18 operating income for Delphi North American  
19 operations for 2006 and 2007?

20 A. I don't recall.

21 Q. Did it include operating income for  
22 Delphi as a whole for 2006 and 2007?

23 A. I don't recall.

24 Q. Well, were the lenders that were  
25 obligating themselves for up to 2.8 billion

36

1 dollars in money, interested in what the  
2 financial performance of Delphi was likely to  
3 be after 2005?

4 A. Yes, sir.

5 Q. And what did you tell them it was likely  
6 to be?

7 A. I told them it was likely to be what was  
8 included in those projections. As I sit here  
9 today, I just cannot -- it's not included in  
10 the declaration that I prepared for this court  
11 -- or for this motion, and it's been a year  
12 since that process took place. I don't  
13 remember the numbers specifically.

14 Q. Well, the -- did the refinancing include  
15 covenants respecting Delphi's financial  
16 performance?

17 A. Yes, it did.

18 Q. And what were the covenants in connection  
19 with operating income for the year 2006?

20 A. I don't recall.

21 Q. I believe you were present in court when  
22 your financial advisor testified that sometime  
23 in May 2005, Delphi decided to create, in  
24 addition to the base case that had been used  
25 for refinancing, a downside case financial

37

1 projection. Do you recall that testimony,  
2 sir?

3 A. I do.

4 Q. And am I correct that the steady state  
5 scenario, under which Packard is projected as  
6 losing 265 million dollars in 2006, is this  
7 downside case that was developed some time in  
8 2005?

9 A. That is not correct.

10 Q. Okay. Which set of financial projections  
11 did you understand your financial advisor to

12 be referring to when he indicated that the  
13 company was going to be preparing a downside  
14 case?

15 A. In the late second quarter of 2005 our  
16 financial advisor that you're referring to,  
17 Rozz Child, recommended that the company  
18 prepare a downside case based upon the, so-  
19 called base case that you've been referring  
20 to. We did prepare that downside case and  
21 based upon a topside, or an overall look at  
22 how the company was performing, and making  
23 certain assumptions with respect to what --  
24 how the performance would continue during the  
25 second half of 2005.

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1 Q. Well, when in 2005 did Delphi begin to  
2 work on what became the steady state scenario?

3 A. We began to work on, what you refer to as  
4 the steady state scenario, beginning in the  
5 third quarter of 2005.

6 Q. All right. Remembering my quarters, that  
7 would mean July 1 -- sometime after July 1?

8 A. Sometime after July 1, that's correct.

9 Q. And prior to July 1, there had been no  
10 steady state -- what we now, I believe not  
11 only me but the company refers to as the  
12 steady state scenario, had not been developed,  
13 correct?

14 A. Prior to July 1, the steady state  
15 scenario had not been developed. The steady -  
16 -



17 Q. Okay. When did Mr. Miller begin his  
18 tenure as chief operating -- excuse me, chief  
19 executive officer of Delphi?

20 A. July 1st, 2005.

21 Q. How long after Mr. Miller's installation  
22 as chief executive officer was the steady  
23 state scenario, projecting all these losses,  
24 completed?

25 A. While the two are completely independent

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1 of each other, the answer to your question is,  
2 approximately five months.

3 Q. Just a coincidence that Mr. Miller begins  
4 working July 1 and that same calendar quarter  
5 the company begins working on a financial  
6 projection but shows 265 million dollars  
7 losses in the Packard division, which is the  
8 basis for the request that the IUE CWA slash  
9 it's wages and benefits, that's a coincidence?

10 A. I think it's important to understand that  
11 the so-called steady state scenario represents  
12 the company's normal business planning process  
13 that it undertakes every year. Every single  
14 year since I've been at Delphi, beginning in  
15 the third quarter of 2005, we begin the  
16 business planning process for the subsequent  
17 years. And we did so exactly in the same time  
18 schedule and process as we've done in all  
19 previous years in 2005.

20 Q. When did Delphi first meet with the IUE  
21 CWA in 2005 for the purpose of convincing the

22 union that it was time to make changes in  
23 their collective bargaining agreement? Let me  
24 help you out here --  
25 A. Ask the question again, Tom, sorry.

40

1 Q. Let me help you out a little.  
2 A. Mr. Kennedy, sorry.  
3 Q. You made, I think, I believe it was you  
4 John, a financial presentation to the unions  
5 in -- some time around September 1, I think it  
6 was Detroit -- or Chicago actually, it might  
7 have been Chicago?  
8 A. I don't believe that I made the  
9 presentation that you're referring to. I  
10 believe a member of Delphi's finance staff  
11 did.  
12 Q. Okay.  
13 A. I know the presentation you're referring  
14 to. I believe your question was, when we  
15 first met with the IUE CWA --  
16 Q. Yeah.  
17 A. -- and I would have placed that first  
18 discussion about the need for changes in our  
19 US labor agreements, in order to provide for  
20 reduced wages and benefits and changes in the  
21 operating rules, more in the first to second  
22 quarter of 2005, specifically March of 2005.  
23 Q. Do you know if the base case scenario  
24 that was utilized in connection with the  
25 refinancing projected a greater or smaller

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1 loss for 2006 in the Packard division than the  
2 265 million that appears in the steady states  
3 scenario?

4 A. I don't know.

5 Q. In constructing the steady states  
6 scenario, did you include the likely impact of  
7 medical inflation on your obligations to both  
8 active and retired Delphi employees?

9 A. Yes, we did.

10 Q. In fact, I believe your declaration  
11 indicates that Delphi's hourly OPEB health  
12 expenses would average, approximately, 1.16  
13 billion per year in the 2006 to 2010 period?

14 MR. BULTER: Your Honor, if Mr.  
15 Kennedy's going to refer to specific  
16 statements out of the declaration, it would be  
17 helpful if he would refer to the paragraph.

18 MR. KENNEDY: Well, generally, I  
19 haven't been doing that.

20 THE COURT: All right. He's been  
21 doing a pretty good job at that so --

22 MR. KENNEDY: I'm sorry, Your Honor,  
23 you'll have to give me a minute to find  
24 that --

25 THE COURT: Okay.

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1 MR. KENNEDY: -- particular  
2 reference.

3 THE COURT: That's fine.

4 BY MR. KENNEDY:

5 Q. Okay. I'm told by the peanut gallery  
6 that paragraph 52 might be the location of  
7 that particular fact.

8 A. I'm aware that counsel from Appaloosa is  
9 well aware of those paragraphs.

10 Q. Yes, we're great friend, Appaloosa and  
11 the unions. The -- looking at paragraph 52  
12 would you indicate if that's correct that the  
13 OPEB health expenses are projected under the  
14 steady state scenario as, approximately, 1.16  
15 billion per year in that '06 to '10 period?

16 A. Yes, sir.

17 Q. Does Delphi retain actuaries to advise  
18 you on pension and health care projections?

19 A. We do.

20 Q. Are you aware that those actuaries made  
21 medical cost projections as part of the FASBE  
22 106 and FASBE 87 procedures Delphi is required  
23 to perform?

24 A. I'm aware that they prepared a pension --  
25 a post-retirement medical valuation report,

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1 valuating our OPEB obligation at December 31,  
2 2005.

3 Q. Well, isn't it a fact that the actuaries  
4 retained by Delphi project an hourly OPEB  
5 health expense of only 800 million a year  
6 through 2010?

7 A. I don't know that number specifically,

8 but it is lower than the 1.16 billion, that's  
9 correct.

10 Q. And if you look at paragraph 53 of your  
11 declaration, your position is that this 300  
12 million dollar difference in OPEB cost is not  
13 material, for purposes of this proceeding?

14 A. Whether -- whether it's 800 million or  
15 1.16 billion in either -- in either situation  
16 it's on the cost of providing medical care in  
17 retirement, it is, unfortunately, unaffordable  
18 to the company.

19 Q. Well, isn't it true that the 300 million  
20 dollar difference between those two numbers  
21 would cover most of the operating losses at  
22 all of the IUE plants in 2005? Have you ever  
23 done that comparison?

24 A. I haven't done that comparison.

25 Q. Now, does your steady state scenario also

44

1 presume health care costs increasing for  
2 actives from 2006 through 2010?

3 A. Yes, it does.

4 Q. What expected health care inflation rate  
5 did you use for computing the active health  
6 care cost projections for those years?

7 A. I believe we used 10 percent.

8 Q. Are you aware that Mr. Williams utilized  
9 health care costs declining after 2006 down to  
10 5.5 percent for '09 and 5.25 percent for  
11 '10 -- 2010?

12 A. I am.

13 Q. How much would it reduce operating losses  
14 at IUE plants in the years 2006 through 2010,  
15 if Delphi had utilized, as a projection for  
16 its retiree and actives, the same health care  
17 inflation factor utilized by Delphi's  
18 actuaries?

19 A. I'm not aware.

20 Q. You didn't perform those calculations?

21 A. No, sir.

22 Q. Well, specifically, have you calculated  
23 the impact on the supposed -- I won't say  
24 supposed -- on the projected loss of 265  
25 million dollars at Packard in '06, if the

45

1 inflation factor is utilized by Watson Wyatt,  
2 had been utilized in that projection?

3 A. No, sir.

4 Q. All right. I think there's been  
5 testimony in the past that the steady state  
6 scenario does not include any impact of the  
7 attrition program that has been negotiated  
8 between UAW, General Motors and Delphi and is  
9 being discussed by those parties, including  
10 the IUE, correct?

11 A. That is correct.

12 Q. Would you agree with me that the  
13 attrition program is expected to have an  
14 impact on the operating income at the plants  
15 in which it is proposed?

16 A. It will have an impact, that's correct.

17 Q. Do you know what the impact will be if a

18 similar program was implemented at Packard as  
19 has been agreed to between UAW and General  
20 Motors and Delphi?  
21 A. I do not.  
22 Q. Has the company done the calculation of  
23 what the operating income would be at Packard,  
24 assuming the implementation of a similar  
25 attrition program?

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1 A. No, sir.  
2 Q. Now, there's also been testimony that in  
3 the first quarter of 2006, Delphi ran ahead of  
4 the steady state scenario by about 500 million  
5 dollars, correct?  
6 A. That is correct.  
7 Q. And that that is -- as projected forward  
8 would reduce the steady state scenario  
9 operating income loss through 2010 by billions  
10 of dollars, is that also correct?  
11 A. I believe it -- as we set forth, it would  
12 reduce the steady state scenario losses by  
13 approximately 3 billion dollars, that's  
14 correct.  
15 Q. Now, have you computed the impact on the  
16 steady state analysis of the operating income  
17 at Packard, how that would benefit from a  
18 projection forward of the 500 million dollar  
19 better performance in the first quarter of  
20 2006?  
21 A. No, sir.  
22 Q. We are approaching the end of the second

23 month of the second quarter, at this point  
24 have you performed a projection of how Delphi  
25 will perform on an operating income compared

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1 to where the steady state scenario said you  
2 would be at this point in the year?  
3 A. No sir, we only -- we forecast the year  
4 on a quarterly basis and we'll do so again in  
5 the mid-June timeframe.  
6 Q. If Delphi runs ahead an additional 500  
7 million in the second quarter of 2006, what  
8 would that impact be on the operating losses  
9 expected through 2010?  
10 A. I don't think you can draw any conclusion  
11 without knowing where that performance would  
12 derive from and whether it would be  
13 sustainable into the future. And then also  
14 understanding what the impact of that positive  
15 performance is on the transformation plans  
16 that the company has developed. Because, as  
17 we know, while we are running positive to the  
18 financial performance under the steady state  
19 scenario, most of that performance is already  
20 comprehended in the programs that are set  
21 forth to achieve the GM consensual and the  
22 competitive benchmark scenarios.  
23 Q. Have you compared the performance by  
24 Delphi in the first quarter to what was  
25 projected under the base case scenario that

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1 was adopted for purposes of the refinancing?

2 A. No, I have not.

3 Q. Does the projection of 265 million dollar  
4 losses at Packard in 2006 include any impact  
5 of the SGNA savings that have been identified  
6 in the Booz Allen report?

7 A. No, sir.

8 Q. Does that projection of a loss of 265  
9 million include any financial gain to Packard  
10 from re-pricing any GM contracts?

11 A. No, sir.

12 Q. If you recalculated -- or calculated  
13 again, the projected operating income  
14 performance of Packard in 2006 and included a  
15 gain from the running ahead in the first  
16 quarter of '06, included or utilized the  
17 Watson Wyatt health cost inflation  
18 assumptions, included a gain from an attrition  
19 program, included a gain from SGNA  
20 improvements and looked at re-pricing GM  
21 contracts, what would the expected operating  
22 income for Packard be in 2006?

23 A. I do not know, however, I would only  
24 point out, I guess, a couple of things from  
25 that. Number one is that the Packard division

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1 is only one piece of an overall enterprise,  
2 Delphi Corporation, and the entire enterprise  
3 needs to be viable, not just the Packard  
4 division. While I understand that is the --

5 where the predominance of the IUE labor force  
6 is located and then --

7 Q. That's why we're talking about it.

8 A. I understand that and I recognize that.

9 And the other point I guess I would make is  
10 that it's important to recognize that the  
11 health care inflation at 10 percent, that  
12 we've used in the steady state scenario for  
13 active and retiree health care is consistent  
14 with the experience we've achieved, or seen,  
15 in health care inflation over the last five  
16 years and as we project a future, we don't see  
17 a reason why, although I understand from an  
18 actuarial perspective -- actuaries -- that the  
19 health care inflation in the economy as a  
20 whole, cannot exceed the inflation in the  
21 economy as a whole over the long term.  
22 Whether that'll occur here in the short run,  
23 we need to guard against.

24 Q. Wouldn't it make sense, John, if you're  
25 going to sit down and bargain with the union

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1 over the terms and conditions of employment at  
2 Packard, to have developed a financial  
3 scenario that, in fact, did include those  
4 variables? Aren't they important from the  
5 point of view of both the union and the  
6 company, to get a handle on what the actual  
7 cost will be in terms of deciding what level  
8 of benefits and wages the company can afford  
9 at that division?

10 A. We -- we looked at what a com -- as you  
11 know -- as you're aware, we looked at from  
12 Kevin Butler's testimony, what a competitive  
13 wage and benefit package would be for employee  
14 -- for our hourly employees. And then we also  
15 have examined the viability of the company  
16 with that competitive wage and benefit  
17 package. As I said a few moments ago, from my  
18 perspective the entire corporation needs to be  
19 viable, not just the Packard division.

20 Q. So your sense of how the negotiations  
21 with the IUE is going to go, is that we take  
22 a, sort of, global approach and ignore the  
23 actual economic circumstances applicable to  
24 the men and women that we really represent?  
25 Is that your vision of how we're going to get

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1 a contract between Delphi and the IUE?

2 A. The company needs to have a competitive  
3 wage and benefit -- all of the company's  
4 costs, and for that matter revenue or pricing,  
5 needs to be at competitive levels. The  
6 company needs to be competitive in every area  
7 for the corporation as a whole. And that --  
8 recognition would be is that, that has to  
9 include both the IUE represented employees, as  
10 well as every other employee. And the  
11 viability of the company depends upon that.

12 Q. The largest production facility at the  
13 Packard division is Warren, Ohio, correct?

14 A. I believe that's correct.

15 Q. We have about 3,800 IUE members working  
16 in Warren, Ohio?  
17 A. It's a substantial number. I don't know  
18 that number specifically, but --  
19 Q. Are you aware that some of those  
20 operations under local 717 at Warren have  
21 achieved international productivity awards?  
22 Are you aware of that?  
23 A. No, sir.  
24 Q. Did it make a difference to the company  
25 in structuring its proposals to the unions

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1 whether the unions, prior to those proposals,  
2 has taken steps on work rules and other  
3 arrangements to make themselves as productive  
4 as possible?  
5 A. We recognize that the IUE has been very -  
6 - has worked very hard to help the company to  
7 be competitive and to deal with the  
8 competitive situation that the company has  
9 been operating under. And we very much  
10 appreciate that. At the end of the day, in  
11 our current situation, what we have to be able  
12 to recognize is the company needs to be  
13 competitive in all aspects of its business.  
14 And, therefore, that the focus of the labor  
15 proposals, as I understand them, is focused on  
16 what is a competitive wage and benefit  
17 package.  
18 Q. I'm not looking for appreciation, nor is  
19 the union. The issue is, whether in a place

20 like Warren, where individuals have agreed to  
21 work rule changes in which they run many more  
22 machines than had previously been the case,  
23 does it make sense to give them the same wage  
24 proposal that is being made to workers in  
25 facilities where there had been no

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1 productivity improvement?  
2 A. I think it does.  
3 Q. How does that proposal reward union  
4 members then, for increased productivity if  
5 its in a one size fits all across the board  
6 proposal, dictated by external notions of what  
7 you think the market for auto part wages is?  
8 A. I believe that we're asking all of our  
9 constituencies -- labor constituencies to  
10 achieve a level of competitiveness that --  
11 both in wage, benefit and work rules. And the  
12 degree to which change is required to achieve  
13 that competitiveness will vary depending upon  
14 the current wage and benefit package.  
15 Q. Now, John, let's talk about the Gadsden,  
16 Alabama plant that's represented by the IUE.  
17 I believe that plant is in the Delphi thermal  
18 and interior division. You mentioned it in  
19 paragraph 21 of your declaration.  
20 A. That's correct.  
21 Q. Now, are you familiar with the labor  
22 conditions prevailing at the Gadsden, Alabama  
23 plant?  
24 A. Labor conditions from what perspective?

25 Q. Well, the average wages, cost and

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1 benefits and so forth?

2 A. I believe that the Gadsden, Alabama  
3 facility has, other than traditional high wage  
4 employees, but I'm not specifically aware of  
5 the details?

6 Q. Well, do you know that the all-in labor  
7 cost for IUE members at Gadsden is less than  
8 20 dollars an hour?

9 A. I understand that there is a competitive  
10 portion of the workforce there.

11 Q. In fact, the entire workforce there is  
12 what you euphemistically call competitive,  
13 correct?

14 MR. BUTLER: Objection.

15 MR. KENNEDY: To what?

16 MR. BUTLER: To characterizations.  
17 You're testifying, Mr. Kennedy?

18 MR. KENNEDY: No, I'm not.

19 THE COURT: Well, generically called  
20 competitive, it's the label he's putting on  
21 it.

22 BY MR. KENNEDY:

23 Q. All right. Generically called  
24 competitive. They're all competitive  
25 employees there as you've termed them,

55

1 correct?

2 A. Whether they're all or not, I'm not  
3 aware. But I am aware that there is, at  
4 least, a portion that is competitive and it  
5 could be all.

6 Q. Do you know if they have a reduced  
7 medical value plan at that facility?

8 A. I do not.

9 Q. Are you aware that they don't participate  
10 in the defined benefit pension plan for hourly  
11 employees?

12 A. If they are competitive -- if they are in  
13 a competitive wage agreement, that was not --  
14 that would be consistent with my  
15 understanding.

16 Q. And did you know the starting wages are  
17 seven dollars and 77 cents an hour at Gadsden?

18 A. I did not.

19 Q. The Delphi proposal that is applicable to  
20 Gadsden would require those workers to pay 180  
21 dollars a month for their medical benefits,  
22 correct, for family coverage?

23 A. I'm not the --

24 Q. You don't know that detail?

25 A. I can't get into that detail, that's

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1 correct.

2 Q. Did Delphi give any consideration as to  
3 whether it was appropriate, in what are  
4 already low-wage plants, to make the same  
5 proposal that was being made at other plants

6 where the workers were averaging 25 or 26  
7 dollars an hour?  
8 A. The health care costs are a fixed cost  
9 which -- for which the sharing of those costs  
10 between employee and employer is a common  
11 practice in the industry. And, therefore, I  
12 believe that our wage proposals recognize a  
13 competitive level of wage -- of health care  
14 cost infla -- sharing between the two parties.  
15 Q. And you didn't look at the affected  
16 percentage of a worker's income that those  
17 proposals would be, correct?  
18 A. I believe that's correct. The focus was  
19 on achieving competitiveness with our peers  
20 and industry in general.  
21 Q. And in order to become competitive you  
22 felt it was necessary to make the same  
23 proposal at Gadsden for employees making 7.77  
24 an hour as employees making 30 dollars an hour  
25 at Warren?

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1 A. The -- as I was indicating a few moments  
2 ago when we were discussing the work rules,  
3 the focus was on achieving competitiveness  
4 within all aspects of our business. The  
5 degree of change required to get there will  
6 vary, depending upon where individuals are  
7 currently located in the spectrum of  
8 competitiveness.  
9 Q. John, let's talk about Kettering, Ohio a  
10 little bit. Kettering, Ohio is addressed --



11 or rather is located in the automotive  
12 provings group that's mentioned at paragraph  
13 22 of your statement.  
14 A. That's correct.  
15 Q. Do you know what the percentage of  
16 business at Kettering is, that comes from  
17 General Motors?  
18 A. While I'm not aware of the percentage  
19 specifically, I believe it is a substantial  
20 proportion of all of the manufacturing in the  
21 facility.  
22 Q. Over 80 percent is what the union tells  
23 me.  
24 A. I wouldn't be surprised.  
25 Q. The Kettering GM contracts are currently

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1 the subject of the GM re-pricing motion that  
2 Delphi has made, isn't that also correct?  
3 A. I believe that's correct.  
4 Q. And I gathered from paragraph 83 of your  
5 declaration that you are presuming an  
6 additional two billion dollars in GM revenue  
7 as part of your GM consensual scenario?  
8 MR. BUTLER: Objection, foundation.  
9 THE COURT: Well --  
10 MR. KENNEDY: All right. Well, let  
11 me just ask the question better.  
12 Q. What is the amount of additional revenue  
13 Delphi hopes to achieve by the re-pricing of  
14 its General Motors contract?  
15 A. That would be a matter that would be

16 worked out at such time that the company has  
17 the authority to be able to reject and/or re-  
18 price those contracts.

19 Q. So, at the moment you're unable to  
20 estimate how much additional revenue the  
21 Kettering plant would achieve if the GM  
22 contracts, under which it's producing a  
23 product, were rejected and re-priced?

24 A. That's correct.

25 Q. Would you agree with me, it's fair to say

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1 it's going to be more money rather than less?

2 A. I think that would be a fair assumption  
3 if we had the authority to be able to re-price  
4 those contracts and GM accepted that re-  
5 pricing.

6 Q. Does the steady state scenario that  
7 projects operating losses at Kettering include  
8 the impact of re-pricing those General Motors  
9 contracts?

10 A. No, sir.

11 Q. And what about the attrition program.  
12 Does the steady state scenario for Kettering  
13 assume the impact of an attrition program to  
14 be implemented at Kettering?

15 A. No, sir.

16 Q. Now, are you aware that new employees can  
17 be hired under the existing contract at  
18 Kettering at eight dollars an hour?

19 A. Not specifically.

20 Q. Are you aware that there is a reduced

21 hiring rate in effect at Kettering already,  
22 under the existing contract?  
23 A. We have -- we have with many of our  
24 unions, the ability to hire new employees at  
25 competitive wage and benefit at negot -- lower

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1 than traditional wage and benefit packages  
2 that are much closer to competitive. And the  
3 issue for us has been the ability to have the  
4 work in order to be able to hire new  
5 employees. And to get at that lower wage and  
6 benefit package.

7 Q. How much would it improve Kettering's  
8 operating income if there were an attrition  
9 program implemented which opened spots that  
10 allowed the company to hire in at eight  
11 dollars an hour?

12 A. I'm not specifically aware.

13 Q. Have you factored into the Kettering  
14 operating income projections, the recent  
15 improvements in the steady state scenario?

16 A. We have done so for the corporation as a  
17 whole, not on an individual manufacturing  
18 facility basis.

19 Q. Can you tell us what the projected  
20 performance and operating income for 2006  
21 would be at Kettering if we did factor in an  
22 attrition program, re-hirings at eight dollars  
23 an hour, the recent improvements in the steady  
24 state scenario and additional income from  
25 General Motors?

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1 MR. BUTLER: Your Honor, in a sense  
2 this has been asked and answered. He's going  
3 to go to each plant. He's already -- the  
4 witness has already testified that these  
5 factors were not taken into consideration at  
6 that level.

7 MR. KENNEDY: We only have seven  
8 plants, Your Honor.

9 THE COURT: Well, but he has -- he's  
10 not done it on a plant by plant

11 MR. KENNEDY: All right.

12 THE COURT: -- he hasn't even done  
13 it on a division by division, so he's not done  
14 it on a plant by plant either.

15 BY MR. KENNEDY:

16 Q. Well, if I ask you those same questions  
17 in connection with the Moraine, Ohio facility,  
18 would you give the same answers?

19 A. I would.

20 Q. The product that's made at Moraine is  
21 compressors, correct?

22 A. I believe that's correct.

23 Q. And the -- Delphi has announced that the  
24 compressors being made at Moraine will  
25 continue to be made but are expected to be

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1 placed into other plants, is that correct?

2 A. I believe that's correct.

3 Q. Do you know where those compressors are  
4 going to be sent?  
5 A. I believe the -- the relocation would be  
6 to Mexico.  
7 Q. Directing your attention to the New  
8 Brunswick facility that is represented by the  
9 IUE, that's a battery plant, correct?  
10 A. That's correct.  
11 Q. And the company has entered into an  
12 arrangement with JCI under which this facility  
13 may be sold to JCI, correct?  
14 A. That's correct.  
15 Q. And are you aware that the IUE has  
16 indicated it will agree to the proposed sale  
17 if the parties can agree upon an attrition  
18 program to be applicable to those employees?  
19 A. Generally.  
20 Q. And that's generally correct, right?  
21 A. To my understanding, it is generally  
22 correct. I don't know the specifics --  
23 Q. Okay.  
24 A. -- of the negotiation and the  
25 discussions. But, I am generally aware of

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1 that, yes.  
2 Q. And that ability to sell that plant has  
3 been achieved under the existing labor  
4 agreement, isn't that also correct?  
5 A. Ask the question again, please.  
6 Q. The ability to sell that plant to JCI has  
7 been achieved under the existing collective

8 bargaining agreement?

9 A. Whether it's under the existing  
10 collective bargaining agreement or a separate  
11 agreement among the parties I'm not positive.  
12 But I believe there is agreement between the  
13 IUE and the company that, subject to reaching  
14 an acceptable operating arrangement in the  
15 future, that yes. That facility would have  
16 the ability to be transferred to JCI.

17 Q. Okay. Let me be clearer in my question.

18 A. Yeah.

19 Q. The -- a complaint I've heard quite a bit  
20 from Delphi is that it is unable to sell, fix  
21 or close it's existing facilities under it's  
22 national labor agreements including the IUE  
23 agreement, isn't that correct?

24 A. I think that the company has, after much  
25 discussion and protracted -- I'll say

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1 negotiations been able in certain situations  
2 to be able to achieve the sale or closure of  
3 facilities. But they have been at -- after  
4 much, you know, over a protracted time period  
5 and discussion, yes.

6 Q. And it's been hard for the company  
7 because you have to get the union's agreement  
8 in essence, correct?

9 A. It has delayed the process over that it  
10 would -- the company would otherwise have been  
11 able to achieve.

12 Q. But although it's been delayed, isn't it

13 a fact that Delphi has been able to close and  
14 sell facilities under the current contracts in  
15 negotiations with the unions?

16 A. In certain situations, yes.

17 Q. Now, with respect to the Anaheim facility  
18 that was represented by the IUE, that facility  
19 is now closed, isn't that also correct?

20 A. I believe that's correct.

21 Q. And are you aware, in the various  
22 negotiations the IUE has said it will agree to  
23 an attrition program to be provided to those  
24 employees?

25 A. I believe that's correct.

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1 Q. Now, I'd like to direct your attention to  
2 paragraph 31 of your declaration, John. Am I  
3 right that the first factor you identify as  
4 responsible for the continued deterioration in  
5 Delphi's US operations are the existing labor  
6 agreements?

7 A. That is correct.

8 Q. And I take it you believe that the  
9 commitments Delphi made to mirror the 1999 and  
10 2003 GM labor contracts were costly to Delphi?

11 A. I think that's a -- that is a true  
12 statement.

13 Q. So, as we sit here today Delphi has never  
14 had an opportunity to negotiate its own  
15 national labor agreement with the IUE, is that  
16 also correct?

17 A. I believe that's correct.

18 Q. And the first opportunity to do so will  
19 be in 2007, right?  
20 A. That's correct.  
21 Q. And am I also right that in typical  
22 negotiations the parties start some months in  
23 advance of the actual expiration date?  
24 A. That's correct.  
25 Q. So is it fair to say that even if this

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1 Court denies the motion that is currently  
2 pending, by the summer of 2007 the IUE and  
3 Delphi will be in negotiations for a new  
4 national agreement anyway?  
5 A. Assuming that the company is able to  
6 financially survive until that period of time,  
7 yes.  
8 Q. Yes, assuming you're able to survive.  
9 A. Yeah.  
10 Q. Is there any -- well, let me withdraw  
11 that. And I take it that one of Delphi's most  
12 important business objectives in the spinoff  
13 from General Motors, was to become a global  
14 supplier to OEMs, is that correct?  
15 A. To all OEMs --  
16 Q. Yes.  
17 A. Including non-GM customers, that's  
18 correct.  
19 Q. And Delphi, in fact, has achieved these  
20 goals, correct?  
21 A. We are -- we continue to seek to increase  
22 our revenue with customers other than General



23 Motors. And to diversify our customer base  
24 away from General Motors, in order to be able  
25 to insulate ourselves against the impact of

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1 any one customer.

2 Q. Now, you state at paragraph 40 of your  
3 declaration that labor is a fixed cost under  
4 GM UAW labor agreements, do you see that  
5 statement?

6 A. Paragraph 40?

7 Q. Yeah.

8 A. It is, in effect, a fixed cost.

9 Q. And is it your contention that it is a  
10 fixed cost under IUE Delphi agreements as  
11 well?

12 A. In certain situations, yes.

13 Q. In certain situations it's not though, is  
14 that correct?

15 A. In certain situations they -- employees  
16 may not have job security and, therefore, not  
17 be as fixed as in situations where they do  
18 have job security, yes.

19 Q. Well, even employees that work under IUE  
20 contracts that have job security are permitted  
21 to be laid off for volume related reasons,  
22 correct?

23 A. I'm not --

24 MR. BUTLER: Objection. Your Honor,

25 Mr. Kennedy is talking now about specific

1 provisions of the effective bargaining  
2 agreement. I don't know that it's in the  
3 knowledge of this witness, but if there's a  
4 provision of the collective bargaining  
5 agreement, he ought to point to it. I just --

6 MR. KENNEDY: I think this is a  
7 pretty well-known fact. If the witness  
8 doesn't know it he'll say so.

9 A. I don't know that specifically.

10 Q. You don't know that?

11 A. No.

12 Q. Do you know how long an IUE represented  
13 employee under the national agreement can be  
14 laid off before there is any opportunity to go  
15 into the jobs bank?

16 A. No, I do not.

17 Q. Do you know if the next contract -- or I  
18 should say the current contract, which expires  
19 in October 2007, will expire before any  
20 employees laid off now would be eligible for  
21 any job bank participation?

22 A. No.

23 Q. You don't. In paragraph 56 of your  
24 declaration, John, you refer to a supplemental  
25 executive retirement plan. What is that SERP

1 plan?

2 A. It is an unfunded supplemental retirement  
3 plan for certain executives of the company.

4 Q. How many executives of Delphi participate  
5 in this plan?

6 A. To the best of my knowledge, I believe  
7 that every executive in the company  
8 participates in the plan.

9 Q. And, for purposes of, sort of, scale  
10 approximately how many people are you defining  
11 as executives for that purpose?

12 A. We have 600 executives globally in the  
13 company. As I sit here, I am not specifically  
14 aware of whether the non-US executives  
15 participate in this plan or whether it's only  
16 US executives. That's not my area of  
17 expertise, quite honestly.

18 Q. It would be a number smaller than 600  
19 though?

20 A. There would be less US executives than  
21 the global population, that's correct.

22 Q. Okay. Now, has that -- has there been  
23 any public announcement that that plan is or  
24 is going to be frozen?

25 A. There has been no public announcement

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1 about that fact.

2 Q. Have any plan amendments been adopted to  
3 the supplemental executive retirement plan  
4 that would freeze it at any point in time?

5 A. No, sir.

6 Q. Since October 8, 2005 and the filing of  
7 this proceeding, have there been any changes  
8 at all in the supplemental executive

9 retirement plan?

10 A. No, sir. I'm not aware there's been  
11 changes in any of our retirement plans.

12 Q. Well, as I understand it, the hourly  
13 retirement plan announcements have been made  
14 that the company, at least, intends to freeze  
15 the accumulation of benefits as of December  
16 31, 2006, correct?

17 A. Subject to the negotiations that are  
18 going on, yes.

19 Q. Is there any intention of freezing the  
20 accumulation of benefits under the  
21 supplemental executive retirement plan?

22 A. No decision has been made about that, to  
23 the best of my knowledge.

24 Q. The salaried retirement plan is being  
25 frozen as of December 31, 2006 as well,

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1 correct?

2 A. It is our intention to do so, yes.

3 Q. Do the executives who participate in the  
4 supplemental executive retirement plan also  
5 participate in the salaried retirement plan?

6 A. Yes, they do. I believe they do.

7 Q. John, I'd like to direct your attention  
8 to paragraph 100 of your declaration. You're  
9 referring there to settlements -- claim  
10 settlements for trade creditors.

11 A. Yes, sir.

12 Q. What has been the average percentage  
13 claim settlement for trade creditors thus far

14 in the proceeding?

15 A. I believe that's approximately 75 cents  
16 on the dollar.

17 Q. And most of those creditors have also, in  
18 the course of that settlement, continued to do  
19 business with Delphi, correct?

20 A. I believe that's correct.

21 Q. And is that under reduced terms or  
22 typically a continuation of the terms that  
23 were in place prior to the filing of the  
24 bankruptcy?

25 A. It varies by supplier. And based upon

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1 the overall terms and conditions that are  
2 negotiated between Delphi and the supplier,  
3 you know, that back in November the supplier  
4 contract assumption motion was approved by  
5 this court and we believe that's been very  
6 helpful at being able to allow the company to  
7 stabilize the relationships and the terms and  
8 conditions in which it operating with it's  
9 supply base.

10 Q. Well, is it fair to say that most of the  
11 trade creditors have continued doing business  
12 with Delphi on, more or less, the same terms  
13 as existed prior to filing the bankruptcy  
14 petition?

15 A. No, I don't think that's fair to say.  
16 When you look at the level of performance  
17 that -- financial performance that we're  
18 achieving in material cost this year, it is

19 reduced from that which we've historically  
20 seen. We've averaged, in the past,  
21 approximately four percent and we're not  
22 achieving that type of performance in 2006.  
23 While I --  
24 Q. Could you explain what you mean by four  
25 percent performance?

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1 A. What I guess I'm referring to -- guess,  
2 excuse me. What I'm referring to is, is that  
3 when you look at, on a volume adjusted basis,  
4 so on a like level of volume what our material  
5 cost is year over year, it has, on average,  
6 declined by four percent during the last five  
7 years.  
8 Q. Okay.  
9 A. In 2006 we are not achieving that same  
10 level of financial performance. Meaning,  
11 we're not achieving the same level of cost  
12 reduction from -- with our supply base.  
13 Second --  
14 Q. As I understand that point, the supply  
15 base then is essentially selling to Delphi at  
16 the same unit cost as they had been selling  
17 prior to the filing of the bankruptcy?  
18 A. Or not as at -- at as low or reduced a  
19 price as we may have otherwise been able to  
20 have negotiated with that supply base but for  
21 the unsettled circumstances the company finds  
22 itself in. Secondly, while we certainly have  
23 been able to achieve a level of trade --

24 credit trade -- trade credit terms with our  
25 supply base greater than we had assumed we

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1 would back in October 8th, when we filed for  
2 bankruptcy, we are not back to a M and S 2 or  
3 second day, second month credit terms that we  
4 enjoyed prior to filing for reorganization, or  
5 before the whole unsettled circumstances  
6 began.

7 Q. So the trade creditor group is being paid  
8 faster by Delphi then it was before the  
9 bankruptcy was filed, correct?

10 A. We are at -- are being obliged to pay  
11 that supply base faster, in order to assure a  
12 source of supply to be able to meet the  
13 commitments from our customers.

14 Q. And the trade cred -- the trade vendors  
15 are also achieving a until cost which is  
16 higher than you would have anticipated before  
17 the bankruptcy, because they're not accepting  
18 the four percent price-down that you would  
19 otherwise get?

20 A. We are experiencing a lower level of  
21 price-down than we'd, perhaps, otherwise would  
22 have been able to achieve.

23 Q. Okay. Thank you.

24 MR. KENNEDY: I have no further  
25 questions, Your Honor.

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1 THE COURT: Okay.

2 CROSS EXAMINATION BY

3 MR. PETERSON:

4 Q. Good morning, Mr. Sheehan. Lowell

5 Peterson, Meyer, Souzzi, English & Klein for

6 the Steelworkers. You testified about the

7 SERP, the executive retirement plan. That is

8 a non-tax qualified plan, correct?

9 A. I believe that's correct.

10 Q. And that is because the level of benefits

11 offered under the SERP, particularly when

12 combined with the executive's participation in

13 the salary plan, exceeds the maximum benefit

14 levels under ERISA, correct?

15 A. I believe that's correct.

16 Q. Do you know by how much it exceeds those

17 benefit levels?

18 A. I do not.

19 Q. I'd like to ask you a couple of questions

20 about the Home Avenue plant, represented by

21 the -- who's workers are represented by the

22 steelworkers. Now, as I understand your

23 declaration at paragraph 30 and the chart that

24 appears there, these operating income margins

25 reflect an allocation of corporate overhead to

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1 the particular facilities, correct?

2 A. That's correct.

3 Q. And those allocations are not necessarily

4 based on any plant by plant performance,

5 correct?



6 A. They're -- it's not based upon plant  
7 performance, no.

8 Q. These allocations are done by --  
9 essentially by product line, is that a fair  
10 statement?

11 A. I think the allocations are made based  
12 upon the level of service that is provided to  
13 the facility, so based upon the relative size  
14 of the facility, if I use that term as  
15 measured by, whether it be revenue or head  
16 count or some other measure.

17 Q. And that -- that allocation is done based  
18 on an absolute calculation of -- I'm repeating  
19 the question, I think, but I just want to make  
20 sure I understand -- that is based on an  
21 allocation on -- of absolute corporate  
22 overhead, not plant by plant performance?

23 A. I think that's what I said.

24 Q. Yeah. I think that's right. I just  
25 wanted to make sure that I didn't mess up my

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1 question earlier. So if you look at the Home  
2 Avenue plant, for example, which is in the  
3 chart --

4 A. Uh-huh.

5 Q. The operating income loss reflects plant  
6 performance and a corporate allocation simply  
7 based on the fact that it's a relatively large  
8 facility, correct?

9 A. I don't know how much allocation is in  
10 there. And I don't know the relative size of

11 that facility. But in general, that would be  
12 correct.

13 Q. Home Avenue is scheduled to be sold or  
14 closed, correct? When I say scheduled that's  
15 perhaps, too precise a word. The current plans  
16 of Delphi is to either close or sell the Home  
17 Avenue plant, correct.

18 A. I believe that's correct.

19 Q. And as a result that operating loss, net  
20 operating income loss would be gone from the  
21 corporate books going forward, correct?

22 A. That is correct. The revenue would be  
23 eliminated and the associated costs would be  
24 eliminated.

25 Q. All right. In fact, that's one of the

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1 reasons -- Home Avenue is an AHG facility,  
2 correct?

3 A. I believe that's correct.

4 Q. Sort of the resting place for the sell,  
5 fix or close product lines?

6 A. We don't use the term resting place,  
7 but --

8 Q. I think it's identified as the division  
9 which is -- accumulates the plants that are  
10 under-performing and therefore are subject to  
11 this kind of treatment?

12 A. It is our -- it is those facilities that  
13 are under-performing and where we seek to be  
14 able to fix the situation or if we cannot, to  
15 sell or close the facility, that's correct.

16 Q. And what would be the -- have you -- I  
17 think I know from your responses to Mr.  
18 Kennedy's questions the answer to this, but  
19 let me just --  
20 A. Sure.  
21 Q. -- flush it out a bit.  
22 A. Sure.  
23 Q. Do you know the impact on Delphi's going  
24 forward performance of losing this net  
25 operating income loss at Home Avenue?

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1 A. As set forth in paragraph 30, in 2005  
2 there's a reported operating loss of 105  
3 million dollars on revenue of 216 million  
4 dollars. And so that -- to the extent the  
5 facility was closed and the attendant costs  
6 were eliminated, the effect on the company's  
7 financial results would be to eliminate 216  
8 million -- and the numbers were all the same,  
9 would be to eliminate 216 million dollars of  
10 revenue and 105 million dollars of cost -- of  
11 losses.  
12 Q. So all things being equal, this is a 105  
13 million dollar net gain, approximately.  
14 A. Assuming all of the costs were able to be  
15 eliminated, that's cor -- including the  
16 corporate allocations as you point out.  
17 THE COURT: Well does the steady  
18 state scenario factor in the elimination of  
19 the facility?  
20 A. No.

21 THE COURT: Okay.

22 A. I'm sorry if I misunderstood the  
23 question, the steady state scenario does not  
24 factor in the elimination of any facilities.  
25 I had understood if it was able to be

80

1 achieved, what would be the impact on the  
2 steady state scenario.

3 Q. Now, with respect to Vandalia, which is  
4 also in the chart, clearly the steady state  
5 scenario does not reflect any projections for  
6 an attrition program, or any other changes,  
7 correct?

8 A. That is correct.

9 Q. But does the -- has Delphi factored in  
10 savings resulting from an attrition program at  
11 Vandalia in any of its projections?

12 Obviously, not in steady state.

13 A. We have in the -- in our GM -- in our  
14 competitive benchmark and GM consensual  
15 scenarios, we have factored in the savings  
16 associated with implementation of those  
17 respective labor proposals that are being  
18 discussed here and are incorporated into those  
19 proposals. Including Vandalia.

20 Q. Do you know how much money is projected  
21 to be saved as a result of an attrition  
22 program at Vandalia?

23 A. No, I do not.

24 Q. Okay. In fact, that attrition proposal  
25 wasn't even made until the middle of last

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1 week, correct?

2 A. I'm not aware of exactly that discussion.

3 Q. All right. I won't belabor this, because

4 I -- as I said, I think Mr. Kennedy has asked

5 you the questions with respect to projections

6 of -- on a plant by plant level. But with

7 this could you -- withdrawn. With respect to

8 Vandalia, in fact the steelworkers negotiated,

9 just in the fall of 2004 with Delphi to reduce

10 a number of the labor costs at that facility,

11 correct?

12 A. I'm not aware.

13 Q. You're not aware of the competitive wage

14 schedules at the Vandalia plant?

15 A. I'm not -- it's not my area of expertise

16 within the company.

17 Q. All right. Thank you.

18 CROSS EXAMINATION BY

19 MS. ROBBINS:

20 Q. Good morning Mr. Sheehan. Marianne

21 Robbins for the IAM and IBEW. At the

22 beginning of your declaration, paragraph 4,

23 you mention that, at the present time for 2005

24 you do not have -- you did not at that -- at

25 the time you prepared the declaration, have an

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1 audited statement. Do you have an audited

2 statement for 2005 now?

3 A. No, we do not.

4 Q. Do you know when you expect it?

5 A. In the next couple of weeks.

6 Q. In paragraph 14 of your declaration, you  
7 make reference to ENS, I don't know whether  
8 it's a division or --

9 A. We call it sector.

10 Q. A sector. And you make reference --

11 A. I've heard division. Excuse me, this is  
12 the ENS division.

13 Q. Division, okay. You make reference to  
14 130 million dollar profit in North America.

15 And you identify Milwaukee and Kokomo as the  
16 US plants. Are those the only North American  
17 plants in that division?

18 A. No, Ma'am. No.

19 Q. What are the others if you know?

20 A. We have a number of manufacturing  
21 facilities in that division that are located  
22 in North America other than those two  
23 facilities that are specifically located in  
24 the United States.

25 Q. Can you name them and their location?

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1 A. The -- no, I cannot name them. They are  
2 located in Mexico and I cannot name the  
3 facilities off the top of my head.

4 Q. In paragraph 19 you make reference to the  
5 ENC division and you indicate a overall loss  
6 of 809 million and you identify 428.9 million

7 of that being in North America. So about  
8 half of the loss is outside North America, is  
9 that right?

10 A. That is correct. That is driven by an  
11 impairment charge that was taken for that  
12 division, related to good will that was  
13 located in Europe.

14 Q. The impairment charge goes over both --  
15 goes over all geographic areas, is that right?

16 A. The impairment charge relates to the  
17 division as a whole, and specifically relates  
18 to good will that is sitting on the -- the  
19 general ledger or the trial balances of  
20 European facilities resulting from an  
21 acquisition by that division in Europe.

22 Q. I don't know that you answered my  
23 question. Was the impairment charge spread  
24 over the entire division?

25 A. The impairment charge was taken at the

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1 division level and relat -- and was recorded  
2 in the European operations. So, I guess, if I  
3 understand your question properly, the 428  
4 million dollar loss in the North American  
5 operations does not include the impairment  
6 charge.

7 Q. Looking at paragraph 23 of your  
8 declaration concerning the products made at  
9 the various locations, am I reading that  
10 correctly that Milwaukee is the only source in  
11 the United States for catalytic converters?

12 A. What I can tell you is that none of the  
13 other facilities listed on this page, in  
14 paragraph 23, include the words catalytic  
15 converters. I am not specifically aware  
16 whether there are any other manufacturing  
17 facilities in the United States that produce  
18 any catalytic converters.

19 Q. But as far as you know, paragraph 23 and  
20 the chart that goes with it is accurate, is  
21 that right?

22 A. To the best of my knowledge, that's  
23 correct.

24 Q. So the only one that you know that makes  
25 catalytic converters, according to your chart,

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1 is Milwaukee?

2 A. That's correct.

3 Q. On paragraph 30 you then go through a  
4 chart which has the 2005 OI margin and is that  
5 operating income margin?

6 A. That's correct.

7 Q. And I notice a lot of negative numbers.  
8 In fact, I think, the only positive number  
9 shown is for Brookhaven, Mississippi?

10 A. That's correct.

11 Q. But if you look at the least of the  
12 worst, the lowest -- the highest, from a  
13 positive point of view, OI margin next to  
14 Brookhaven are the Milwaukee facilities, is  
15 that right? That is they have the lowest  
16 negative number? They're the closest to a



17 positive number, is that right?

18 A. As it relates to the ENS facility and  
19 portion of the facility in Milwaukee, that's  
20 correct. I believe that the Adrian, Michigan  
21 facility slightly beats out the Milwaukee ENC  
22 facility.

23 Q. Has there been consideration, given that  
24 Milwaukee has ENS which is generally doing  
25 well overall, in terms of the Delphi product

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1 lines, and you can talk --

2 MR. BUTLER: Objection. Again it's  
3 a characterization of testimony. She's saying  
4 it's, you know, this plant's doing well.

5 Q. Well, do you think -- do you think that  
6 ENS is doing relatively well compared to the  
7 divisions in -- the other divisions in Delphi?

8 A. You know, I guess it's all relative --

9 Q. That's what I said. I said relatively.

10 A. At the end of the day, losing two bill --  
11 two and a half billion dollars doesn't make a  
12 viable business enterprise, but if you want to  
13 look at it from a relativity perspective, I  
14 guess I would agree with you.

15 Q. Okay. Has there been consi -- to go  
16 forward a little bit in your declaration. The  
17 Milwaukee facility as a whole, is scheduled to  
18 close at the end of 2007, is that right?

19 A. I believe that's correct.

20 Q. That's what your declaration says.

21 A. I believe that's correct.

22 Q. Has there been any consideration to

23 leaving it open?

24 A. Not at the current time.

25 Q. Have you given any consideration as to

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1 how applying the attrition program and the re-

2 pricing program would impact the figures for

3 operating income of the Milwaukee facility?

4 A. No, as I explained to Mr. Kennedy, we

5 haven't overlaid any of those types of

6 proposals at individual facility levels.

7 Q. In paragraph 17 of your declaration, you

8 make reference to certain collective

9 bargaining agreements which are not subject to

10 the 1113 and 1114 proceedings. And one of

11 those is in Mountain View, California. Can

12 you identify for us the parties to the

13 collective bargaining agreement involving the

14 company's facility in Mountain View,

15 California?

16 A. No, I cannot.

17 Q. You don't know what union represents

18 employees there?

19 A. I do not.

20 Q. Do you know what the compensation level,

21 the wage level is in Mountain View,

22 California?

23 A. No, I do not.

24 Q. So, to the best of your knowledge, it may

25 be as comparable as or higher than the wage

1 rate in Milwaukee, Wisconsin?

2 MR. BUTLER: Objection. He's  
3 already testified he doesn't know what it is.

4 THE COURT: Sustained. It's  
5 implicit in his answer.

6 MS. ROBBINS: I'm trying to test  
7 whether he knows, in terms of the range, he  
8 doesn't know the precise wage level.

9 Q. Do you know --

10 A. I don't know the range either.

11 Q. Okay. With respect to Irvine,  
12 California, do you know the parties to that  
13 collective bargaining agreement?

14 A. I do not.

15 Q. Do you know anything about the level of  
16 compensation related to the compensation in  
17 the contracts that are at issue here?

18 A. At issue?

19 Q. In these 1113 proceedings. In other  
20 words do you --

21 A. I'm sorry I didn't -- I didn't understand  
22 your question --

23 Q. I'll repeat the question.

24 A. I apologize.

25 Q. Do you know whether the Irvine,

1 California wage rates are higher, lower or the  
2 same as contracts in Milwaukee?

3 A. No, I do not.

4 Q. And with respect to Landrum, South  
5 Carolina, do you know who the parties are to  
6 the collective bargaining agreement?

7 A. I do not.

8 Q. And do you know anything about the  
9 compensation level there?

10 A. No, I do not.

11 Q. Do you know who are the declarants -- I  
12 mean, the reason I'm asking you those  
13 questions is, these contracts are referenced  
14 in your declaration. Do you know which of the  
15 company witnesses does have information on  
16 these issues?

17 A. The determination of which contracts --  
18 labor agreements would be the subject of this  
19 1113 process was made by looking at the  
20 question of competitiveness --

21 Q. I asked who -- who, if you could just  
22 tell me who?

23 A. I was trying to get there, I apologize.  
24 And I believe that that focus was made by our  
25 labor relations staff together with our legal

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1 staff.

2 Q. Can you identify any of the declarants in  
3 this case as having that knowledge, sir?

4 A. Kevin Butler is our chief labor  
5 negotiator.

6 Q. On paragraph 28 of your declaration you  
7 mention that, in terms of the evaluation of  
8 the financial performance of the United States

9 versus other geographic areas, you used what  
10 you call a management study. Why did you use  
11 a management study rather than a financial  
12 statement -- or financial statements to make  
13 the comparison?

14 A. The company manages itself by operating  
15 division as I discuss in my declaration. So,  
16 we have seven operating divisions and then we  
17 also do, on a periodic basis or a monthly  
18 basis, accumulate our financial performance by  
19 the regions that I describe.

20 Q. My question to you is, why did you use a  
21 management study rather than a financial  
22 statement such as income and expense to make  
23 the evaluation?

24 A. Because our financial systems do not  
25 accumulate the financial information.

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1 Q. So there -- there is no financial  
2 statement, like an income and loss statement  
3 by these areas?

4 A. It's not system generated, it's required  
5 to be done on a manual or an allocation basis.  
6 And that's what I mean when I refer to a  
7 management study. It's not how --

8 Q. Would it be accurate that you have no  
9 knowledge that any of these management studies  
10 have been shared with the IAMAW or the IBEW?

11 A. I have no knowledge one way or the other.

12 Q. You made reference, in terms of some  
13 questions, I believe, that Mr. Kennedy asked

14 you that indicated that in terms of your  
15 supplier experience you normally are able to  
16 get reductions in costs. Does that include  
17 suppliers of materials?  
18 A. Yes, it does. It is principally  
19 suppliers of materials.  
20 Q. So, if we would look at a chart of a per  
21 unit cost to Delphi for suppliers over the  
22 last five years, what we would see is that it  
23 reduces year to year, is that right?  
24 A. That is correct, for a comparable size  
25 and specification of product.

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1 Q. An in fact, in 2006 you experienced a  
2 reduction in material cost over what you had  
3 projected in your studies state of about 99  
4 million, isn't that right?  
5 A. We are projecting to experience that  
6 level of performance, yes.  
7 Q. In paragraph 55 of your declaration you  
8 describe an increase in the per capita OPEB,  
9 O-P-E-B, over a period of time. Do you know  
10 what the per capita OPEB is for the hourly  
11 plan at the present time? When you say that  
12 there was a large increase, my question is, do  
13 you know what the actual -- since apparently  
14 there was some look at what it was, do you  
15 know what the actual per capita OPEB is?  
16 A. Not off the top of my head, no.  
17 Q. Did you experience similar increases in  
18 your salaried pension plan?

19 A. Salaried post retirement medical plan,  
20 OPEB is for medical, yeah.  
21 Q. Yeah, you're right. Excuse me.  
22 A. That's okay. Yes, we did.  
23 Q. Thank you for straightening out my  
24 question.  
25 A. We have experienced a similar level of

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1 health care inflation in our hourly plan --  
2 excuse me, in our salaried plan that we have  
3 experienced in the salary plan. Whether the  
4 per capita increase is exactly the same, I'm  
5 not testifying to that. But we have  
6 experienced a similar level of increase.  
7 Q. And your plan now is to retain that plan  
8 for the salaried employees that have that?  
9 A. In 2005 we amended the salary retire --  
10 salaried's OPEB plan to eliminate the benefit  
11 of OPEB. For those individuals have the plan  
12 since 1993, we have not been providing health  
13 care in retirement for any of our salaried  
14 employees --  
15 Q. Thos who have --  
16 MR. BUTLER: Objection. Can he  
17 answer -- finish the question, or the answer,  
18 please.  
19 THE COURT: I think you were asking  
20 the same thing. Go ahead with your answer.  
21 A. Since 19 -- sorry, I'll do it a little  
22 differently. Since '93 none of our salaried  
23 employees have had OPEB in retirement, post

24 retirement medical. And those who do only  
25 have it until age 65 when medical -- Medicare

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1 kicks in. At which point they no longer  
2 receive the benefit.  
3 Q. But, in terms of those who have it, those  
4 who were hired before 1993, that benefit has  
5 been retained for them?  
6 A. On the amended level that I just  
7 described.  
8 Q. When did the amendment that the benefit  
9 lasts until you're Medicare eligible go into  
10 affect if it -- or has it not yet gone into  
11 affect?  
12 A. I believe it went into effect on April 1,  
13 2005, or during the course of 2005. Whether  
14 it's exactly April 1, it is clearly in affect  
15 today, exactly the date, I'm not sure.  
16 Q. Earlier you made reference to the  
17 employer's proposal to freeze hourly pension  
18 benefits. The employer's proposal is that  
19 that freeze go into effect in what month of  
20 2006, if you know?  
21 A. I believe its October 1, 2006.  
22 Q. I just wanted -- your best understanding  
23 is, it's October 2006, not December 2006?  
24 A. That would be my understanding.  
25 Q. But the salaried -- an announced but not

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1 implemented freeze in the salaried plan would  
2 not go into effect until the beginning of  
3 2008, December 31, 2007, is that right?

4 A. I'm not sure, off the top of my head,  
5 whether it's the end of '07 or the end of '06.  
6 Whether it's January 1, '07 or January 1, '08.

7 Q. Okay. Let me -- it certainly is not  
8 October of '06, it is after?

9 A. That's correct.

10 Q. It is no earlier than the end of 2006?

11 A. I believe that's correct.

12 MR. BUTLER: Your Honor, if I could  
13 just, for the record, be clear on this. I  
14 mean, we'll stipulate to those facts. The  
15 proposal is hourly October 1, '06, salaried  
16 January 1, '07. Just so there's not an  
17 ambiguity on the record.

18 Q. Okay. And I'm sorry. I was trying to  
19 straighten the record, and I managed to mis-  
20 speak enough times that it didn't quite work  
21 out that way.

22 A. That's what I believe, but I just wasn't  
23 positive.

24 MR. BUTLER: The debtor's will  
25 stipulate to that.

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1 Q. In terms of the supplemental executive  
2 retirement plan that you made reference to  
3 earlier, do you know how many executives there  
4 are in the United States?

5 A. Approximately 450.

6 Q. On a per capita basis, in terms of the  
7 funding that you make reference to, I think  
8 it's .3 billion, even if you assume the 600  
9 figure, that would be half a million dollars  
10 per person?

11 A. The --

12 Q. Is that right?

13 A. The 300 million dollar number is not  
14 funding its liability. It's an unfunded plan  
15 and I haven't done the calculation of 300  
16 million divided by 450 to know what that  
17 calculation is.

18 Q. Your reference to, and this is paragraph  
19 62 of your declaration. You make a reference  
20 to a cumulative shortfall of 4.6 billion  
21 dollars. That does not take into account your  
22 financing, is that right?

23 A. The 4.6 billion dollar number that you  
24 refer to is the cumulative cash flow shortage  
25 over the '06 through '10 period in the

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1 competitive benchmark scenario, and it does  
2 not contemplate financing it. It is before  
3 financing.

4 Q. And refresh our recollection as to what  
5 financing you have available to Delphi at the  
6 present time.

7 A. All right. We presently have available  
8 to us a debtor-in-possession financing  
9 facility that expires upon the emergence from

10 reorganization that has an unused credit  
11 facility of 1.7 billion dollars.  
12 Q. And how much is it total, including  
13 what's used and unused.  
14 A. Two billion dollars.  
15 Q. Is part of that 4.6 billion claims that  
16 would be compromised in the reorganization?  
17 A. No, I do not believe it is.  
18 Q. In any case, as of 2008 you expect to  
19 have positive operating income, is that right?  
20 Exhibit M of your statement.  
21 A. You're looking under the competitive  
22 benchmark scenario.  
23 MR. BUTLER: You're addressing to  
24 Exhibit M?  
25 MS. ROBBINS: Yes.

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1 MR. BUTLER: Thank you.  
2 A. Under the competitive benchmark scenario  
3 in 2008, that's correct.  
4 Q. In your statement you state that the  
5 employer, Delphi, will not be able to make its  
6 required contribution for the hourly pension  
7 plan. And you talk about a legislative  
8 solution. Have any steps been taken with  
9 respect to a legislative solution?  
10 A. We are taking steps to address the  
11 initiative to be able to stretch our pension  
12 funding, yes.  
13 Q. There are steps that can be taken without  
14 legislation, are there not?

15 A. There are.

16 Q. And can you, instead of seeking a  
17 legislative solution, simply meet your minimum  
18 funding requirements for that plan.

19 A. The --

20 Q. Is that an alternative?

21 THE COURT: I'm sorry, do you mean a  
22 hypothetical alternative or based upon a set  
23 of projections?

24 Q. Is that an alternative that can be --  
25 that you can consider?

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1 A. I'm sorry, I don't understand the  
2 question.

3 Q. As an alternate -- let me back up there.

4 A. I'm not trying to be difficult, I just  
5 want to be sure I answer accurately.

6 Q. As an alternative to a legislative  
7 solution --

8 A. Uh-huh.

9 Q. -- you could seek a waiver without  
10 legislation, could you not?

11 A. We could.

12 Q. There are provisions in the regulations  
13 now for waivers?

14 A. We are exploring that, yes.

15 Q. And as another alternative, you can make  
16 a funding payment, and then you don't need any  
17 waiver?

18 A. Assuming we had the cash to do so.

19 Q. And you are expecting to make your

20 minimum funding requirement to your salaried  
21 plan, are you not?  
22 A. No. The situation is exactly the same as  
23 it relates to both plans and we recognize,  
24 while this may only discuss the hourly, which  
25 is the subject to this -- of this issue, we

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1 explore an extension of the minimum funding  
2 requirements that we would have under ERISA  
3 for both our salaried and hourly plans upon  
4 emergence from reorganization.  
5 Q. Your reason for thinking about a waiver  
6 is that you expect to be able, in the future,  
7 to make payments to make up for the funding  
8 deficit now?  
9 A. Our reason for --  
10 Q. Is that right?  
11 A. Ask your question again, please.  
12 Q. The purpose or the assumption built in to  
13 obtaining a waiver now, for the hourly plan or  
14 the hourly and salaried plan is that, in the  
15 future you will be able to make up the funding  
16 requirements needed?  
17 A. Yes, over time. Over a longer period of  
18 time, we would be able to make those  
19 contributions. The effect of ERISA and the  
20 level of under-funding the plan results in  
21 significant results in significant  
22 contributions being required immediately upon  
23 emergence and that level is overwhelming to be  
24 able to cover as the company is coming out of

25 reorganization.

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1 Q. Well, I think the figure you used was two  
2 billion dollars?

3 A. I believe that's correct.

4 Q. And we're already 500 million better than  
5 your planned projections.

6 A. At the operating income level, I don't  
7 believe that's all cash.

8 Q. Do you have projections as to money or  
9 funds that you will realize from selling some  
10 of the businesses that you wish to sell?

11 A. At the current time, we do not.

12 Q. But you anticipate being able to sell  
13 some of those businesses?

14 A. Given the ability to achieve a  
15 competitive laborer situation in those  
16 facilities or businesses, and the support of  
17 the customer, we would expect to be able to  
18 sell facilities -- sell business, yes.

19 Q. Are you aware that the company has -- you  
20 make reference to information being provided  
21 to unions, are you aware that the company has  
22 taken the position that it would refuse to  
23 provide information on salaried compensation  
24 or concessions?

25 A. Not specifically, no.

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1 Q. Would it be accurate to say that you

2 really don't have any information as to what  
3 information has or has not been provided to  
4 the IAMAW and the IBEW?

5 A. I know that significant information has  
6 been provided to the advisors to our -- this  
7 motion, and our union advisors. And we've  
8 fulfilled a substantial number of requests,  
9 including, I believe, those that are made of  
10 your unions.

11 Q. Are you aware that the IAM and IBEW do  
12 not have financial advisors?

13 A. I understand that, yes.

14 Q. And would it be accurate that you do not  
15 have any information as to what information  
16 was or was not provided to the IAM and IBEW?

17 A. Not here in front of me, no.

18 Q. Would you agree that in terms of the  
19 impact of the concessions sought from the  
20 splinter unions, specifically in this case the  
21 IAM and the IBEW, that the savings that you  
22 would realize from the concessions would not  
23 be enough to make the difference between  
24 Delphi making it financially and not making it  
25 financially out of reorganization?

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1 A. I think that's a true statement.

2 Q. Do you agree that you are not seeking any  
3 wage concessions from salaried employees?

4 A. I think that at this current time that's  
5 a true statement.

6 MS. ROBBINS: No further questions,

7 Your Honor, at this time.

8 THE COURT: Okay.

9 THE COURT: How's everyone doing?

10 Does it make sense to go another half hour or

11 so before we take a break?

12 MS. MEHLSACK: I shouldn't take more

13 than that.

14 THE COURT: Okay.

15 CROSS EXAMINATION BY

16 MS. MEHLSACK:

17 Q. Good -- I think its still morning. Good

18 morning Mr. Sheehan. Barbara Mehlsack for the

19 operating engineers. Are you aware of the --

20 that the operating engineers are -- represent

21 employees at only three facilities, but two

22 that are the subject of this 1113 motion?

23 A. Yes, I'm aware of that.

24 Q. And are you aware of the -- which plants

25 they are?

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1 A. I believe one is Rochester. Perhaps one

2 is Grand Rapids. I don't remember exactly.

3 Q. If -- I will not engage in game playing.

4 It's actually Rochester and Columbus.

5 A. Excuse me.

6 Q. I know you were aware that there was a

7 third facility that is now closed, I'll

8 probably still mispronounce it.

9 A. Olpe --

10 Q. Kansas --

11 A. Yes, Ma'am.



12 Q. And are you -- Rochester is a plant  
13 that's projected to continue in operation with  
14 a core business -- and what is that core  
15 business at Rochester, do you know?  
16 A. Engine management systems.  
17 Q. And do you know how many operating  
18 engineer employees are at that facility?  
19 A. I do not.  
20 Q. Were these projected for the Columbus  
21 plant, do you know? Whether it's going to be  
22 closed, consolidated, sold? If you don't know  
23 off the top of your head --  
24 A. I don't remember off the top of my head,  
25 specifically.

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1 Q. It is -- it is -- are you aware that the  
2 labor relations representatives who have been  
3 meeting with the operating engineers have told  
4 them that the Columbus facility is likely to  
5 be closed? Were you aware of that?  
6 A. That would have been my expectation. I  
7 believe that's correct. It's on the list of  
8 facilities to be closed. I wanted to make  
9 sure I was clear about that.  
10 Q. And the reason for that is?  
11 A. We have gone through an analysis of our  
12 business lines and those that would, for which  
13 we believe we can be competitive in the  
14 future, in which we have the right technology  
15 and the right products to be competitive. And  
16 then based upon that, we then have looked at

17 our footprint to determine how many  
18 manufacturing facilities and where those  
19 manufacturing facilities would be located.  
20 Q. But as to the Columbus plant,  
21 specifically, you cannot tell me why -- what  
22 was the basis for the decision to close that  
23 particular facility as opposed to another  
24 facility, let's say?  
25 A. No, I -- you know, that the -- it would

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1 depend upon both the product that was being  
2 produced there and whether that was a product  
3 that we would remain in. and then the nature  
4 of the product and the ability to profitably  
5 manufacture that product in -- within a  
6 facility in the United States, even with a  
7 competitive US wage benefit package.  
8 Q. I think it was a simple question, Mr.  
9 Sheehan. Right now, today, you can't tell me  
10 what the basis is of the decision to close  
11 down the Columbus facility?  
12 A. No, Ma'am.  
13 Q. Turning to paragraph 31 of your  
14 declaration. You state that -- you said that  
15 the continued deterioration of Delphi is  
16 attributable to three principal factors. And  
17 then you talk about the labor agreements and  
18 you -- in effect, have three, I guess reasons,  
19 and please correct me if I'm mischaracterizing  
20 in any way, your statement. You're saying  
21 that it cost an increase in labor and benefit

22 costs, legacy retirement liabilities and have  
23 limited Delphi's ability to respond to reduced  
24 revenue by selling or closing facilities and  
25 laying off excess employees. The first of

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1 those factors, the increase in Delphi's labor  
2 costs. An increase over what?

3 A. An increase over the costs in prior  
4 periods.

5 Q. So that in the case of the operating  
6 engineers is that -- do you have an analysis  
7 of what that increase is?

8 A. I do not.

9 Q. Is that an unanticipated increase?

10 A. The -- I'm not aware.

11 Q. You don't know whether that was an  
12 anticipated increase or an unanticipated  
13 increase?

14 A. I do not.

15 Q. But the labor costs as set forth in the  
16 collective bargaining agreements, is that not  
17 correct?

18 A. That is correct.

19 Q. And those costs are easily projectable  
20 based upon wage rates and numbers of  
21 employees.

22 A. I have not seen an analysis of that for  
23 the operating engineers.

24 Q. Legacy retirement liabilities, have you  
25 seen any analysis of legacy retirement

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1 liabilities for the operating engineers?

2 A. I have not.

3 Q. Are you aware of -- as to whether or not

4 there even are any legacy retirement

5 liabilities for the operating engineers?

6 A. I am not.

7 Q. The limitation on Delphi's ability to

8 respond to reduced revenue by selling or

9 closing facilities. Are you aware of the

10 circumstances surrounding the closing the only

11 facility where the operating engineers are

12 represented that has already closed the one in

13 Kansas?

14 A. Am I aware of the --

15 Q. The circumstances surrounding the closing

16 of that Kansas facility?

17 A. Not specifically.

18 Q. So, as far as you know, the operating

19 engineer's contract posed no obstacle to the

20 closing of that facility?

21 MR. BUTLER: He already testified he

22 wasn't aware of the circumstances.

23 MS. MEHLSACK: And I'm --

24 THE COURT: Can you answer her

25 question?

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1 A. Can I repeat the answer, yes.

2 THE COURT: No, can you answer that

3 question?

4 A. I am not aware whether the operating  
5 engineer's contract posed any obstacles to the  
6 closing of the Olathe facility.

7 Q. And -- question withdrawn. Laying off  
8 access employees, are you aware of what the  
9 circumstances are at the Columbus facility in  
10 connection with employee needs, manning needs?

11 A. No, I'm not.

12 Q. Are you aware of the fact that the labor  
13 representatives have advised the OE, the  
14 operating engineers, that if there is an  
15 attrition program in place -- put in place,  
16 that they want to control how many employees  
17 take that program. Because they want to make  
18 sure that there are a sufficient number of  
19 skilled engineers available to operate the  
20 facility until its shut down.

21 A. I believe that provision exists with the  
22 UAW attrition program that was already  
23 approved, that there has to be mutual  
24 agreement and the timing of the leaving -- the  
25 people leaving under the program insure that

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1 the facility is able to operate -- continue to  
2 operate.

3 Q. All right. But the question I asked you  
4 is, are you aware specifically that at  
5 Columbus, Delphi has told the IUOE that they  
6 want to make sure that there are enough  
7 employees around?

8 A. I'm not aware of that specifically, but  
9 it would not surprise me given my  
10 understanding of the UAW.  
11 Q. Are you aware of what the impact would be  
12 in Rochester of the attrition program?  
13 A. I am not.  
14 Q. In terms of whether there would be a need  
15 to lay off any employees after an attrition  
16 program were offered?  
17 A. I am not.  
18 Q. I take it that your answers to Mr.  
19 Kennedy and Ms. Robinson, that you have not  
20 considered the impact of an attrition program  
21 -- first, you have not considered the impact  
22 of an attrition program on the profitability  
23 of any of the facilities that will continue to  
24 operate, including Rochester?  
25 A. That's correct.

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1 Q. Have you considered the impact on --  
2 question withdrawn. Is it the case that if  
3 the changes that, to the IUE contract that  
4 Delphi has proposed, whether it's consensual,  
5 competitive, or anything that's in between,  
6 that at the Rochester plant, those changes  
7 would have no impact, whatsoever, on the  
8 profitability of the Rochester plant. That  
9 is, it would make no difference at all to the  
10 profitability of the Rochester plant if the  
11 operating engineers -- the proposed changes to  
12 the operating engineer's contracts were put in

13 place?

14 MR. BUTLER: Objection. I don't

15 know what the question is, Your Honor. I'm

16 sorry, I can't --

17 THE COURT: I think you should start

18 over.

19 Q. Have you made any analysis if the

20 operating -- the changes that Delphi has

21 proposed to the operating engineers contract.

22 Let's take the competitive benchmark

23 proposals, were put in place, whether that

24 would have any impact at all on the Rochester

25 plant's profitability in the future?

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1 A. Have I prepared an analysis?

2 Q. That's the question.

3 A. Not specifically. It is part of the

4 overall analysis of the company.

5 Q. But you've not done a specific analysis

6 as to the impact of the proposed operating

7 engineer's changes on the profitability of the

8 company?

9 A. As I described to Mr. Kennedy, the entire

10 corporation has to be viable, not just one

11 piece of the company.

12 Q. And I gather what you mean, amongst the

13 elements of viability, you said is that there

14 be competitive wage -- that there be

15 competitive wages, and you stated that those

16 wages have to be competitive with Delphi's

17 peers, am I correct?

18 A. Yes, Ma'am.

19 Q. And by peers do you mean the other auto  
20 manufacturing company -- auto parts  
21 manufacturing companies in this country?

22 A. Yes, Ma'am.

23 Q. Have you done an analysis of whether or  
24 not the operating engineer's wages are  
25 competitive with the wages for stationary

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1 engineers at the other auto manufacturing  
2 parts companies?

3 A. I have not.

4 Q. Do you know -- you have not. It's my  
5 understanding, however, from Mr. Butler's  
6 testimony that the competitive wage that --  
7 that Delphi's claim that its wage package is  
8 competitive is based on Mr. Wachter's  
9 comparability study, is that correct?

10 A. I don't remember Mr. Butler's testimony  
11 exactly so I can't say.

12 Q. Is it your understanding that the wage  
13 proposal that Delphi has made to the operating  
14 engineers is based on Mr. Wachter's  
15 comparability study?

16 A. I don't know.

17 Q. The executive -- the supplemental  
18 executive retirement plan that you were  
19 discussing, that's a non-qualified plan,  
20 that's correct?

21 MR. BUTLER: Objection. Asked and  
22 answered in prior cross-examination.



23 Q. Are you aware of any other non-qualified  
24 plans that are available to the executives who  
25 have the supplemental executive plan?

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1 A. Not at the current time.  
2 Q. Not -- you're not aware at the current  
3 time, or there aren't any at the current time?  
4 A. To the best of my knowledge, as I sit  
5 here, I don't know of any.  
6 Q. Are you aware of any proposals to the  
7 executives who are in that supplemental plan,  
8 to reduce benefit levels in that plan?  
9 A. I'm not aware of any.  
10 Q. Are you aware of any retiree health  
11 insurance that's provided to executives in the  
12 company?  
13 A. The executives are in exactly the same  
14 plan as I described to Mr. Peterson earlier.  
15 So, if they were hired before 1993, they would  
16 be eligible to participate in the plan and  
17 they would have received the same treatment  
18 that all of the other salaried employees  
19 received in 2005 when we eliminated post-  
20 retirement medical once you're Medicare  
21 eligible.  
22 Q. And is that post-retirement medical until  
23 Medicare eligibility; is there any plan to  
24 eliminate that provision?  
25 THE COURT: That's asked and

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1 answered too.

2 MS. MEHLSACK: I don't remember this  
3 witness had answered that.

4 THE COURT: He did.

5 MS. MEHLSACK: Then I apologize,  
6 Your Honor.

7 Q. Are you aware of any individual  
8 arrangements, other than a medical plan or a  
9 retiree medical plan, individual arrangements  
10 with executives, retired executives, to  
11 provide them with health insurance?

12 A. No, Ma'am.

13 Q. Are you aware of any individual contracts  
14 with current executives, to provide them with  
15 health insurance when they do retire?

16 A. No, Ma'am.

17 MS. MEHLSACK: Okay. I'm going to  
18 ask that -- if counsel could provide us, if  
19 any of those contracts exist.

20 MR. BUTLER: Your Honor, cross  
21 examination is not the time for discovery  
22 requests.

23 MS. MEHLSACK: We will make that  
24 discovery later on.

25 MR. BUTLER: The time for discovery

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1 requests has passed, counsel.

2 MS. MEHLSACK: I'll have a  
3 discussion with counsel about this later.

4 Your --

5 THE COURT: Okay.

6 MS. MEHLSACK: My client's have been  
7 refused certain data, Mr. Butler.

8 Q. Are you aware, in fact, Mr. Sheehan, and  
9 I don't know if you're the individual to whom  
10 this question has been addressed but, are you  
11 the person who did the analysis of the losses  
12 at the various plants? There's that chart on  
13 page 14 of your declaration, was that done by  
14 you or members of your staff?

15 A. Paragraph 14?

16 Q. No, page 14.

17 A. Page 14, sorry.

18 Q. Page 14, paragraph 30.

19 A. Sorry. That analysis was prepared by the  
20 Delphi finance staff in 2005.

21 Q. Are you aware that in negotiations, my  
22 clients have asked to have a -- to receive a  
23 copy of that analysis for the Rochester plant  
24 and have been refused that. And they were  
25 told that they would -- that the negotiators

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1 would have to ask, I believe, upper  
2 management. Has that question been addressed  
3 to you?

4 A. Not to the best of my knowledge.

5 Q. From an overall perspective, in terms of  
6 the overall profitability of Delphi, would the  
7 concessions that have been requested of the  
8 operating engineers make a difference?

9 A. Yes, they would make a difference.

10 Q. And you've done an analysis of that  
11 difference?

12 A. No, Ma'am. Your question was whether  
13 they would make a difference. They would make  
14 a difference. Each change helps a little bit.

15 Q. But there's no analysis done of that. So  
16 you couldn't show me the numbers?

17 A. No, Ma'am.

18 MS. MEHLSACK: No further questions.

19 THE COURT: Okay. Thank you.

20 CROSS EXAMINATION BY

21 MR. SIMON:

22 Q. Good morning, or is it afternoon?

23 A. No, still morning.

24 Q. Still good morning. Good morning Mr.

25 Sheehan, Bruce Simon from Cohen, Weiss and

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1 Simon for the auto workers. As we stand here  
2 today, what is Delphi's liquidity position?

3 A. I'm not aware specifically.

4 Q. What is the most recent date for which  
5 you would be aware of Delphi's liquidity  
6 position?

7 A. I believe that at the end of April that  
8 we had, roughly, 1.9 billion dollars of cash  
9 and access to a revolving credit facility  
10 under the DIP financing arrangement.

11 Q. And what was the access to the revolver?

12 A. As I described earlier, 1.7 billion  
13 dollars.

14 Q. So that would be a total of --

15 A. In excess of three billion dollars.  
16 Q. And in addition to that is there,  
17 approximately, another billion dollars in non-  
18 debtor Delphi entities?  
19 A. In terms of borrowing capacity, I don't  
20 believe that there's capacity but there is  
21 outstanding lines, but I don't know it  
22 specifically off the top of my head here.  
23 Q. But there's also cash in the non-debtor  
24 Delphi facilities, correct?  
25 A. The 1.9 billion dollars that I referred

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1 to was debtor and non-debtor combined, not  
2 just the debtor.  
3 Q. So, order of magnitude, 3.6 billion  
4 dollars worth of liquidity at the end of  
5 April?  
6 A. Yes, sir.  
7 Q. And that reflected the 500 million better  
8 than planned performance for the first  
9 quarter?  
10 A. The 500 --  
11 Q. That was included in there?  
12 A. To the extent it was cash.  
13 Q. Yeah. I want to revisit what you  
14 testified to regarding your material costs.  
15 A. Uh-huh.  
16 Q. If I understood your testimony this  
17 morning, it was the Delphi had not  
18 experienced, in the first quarter of '06, the  
19 price downs in material costs that it had

20 experienced over the past number of years,  
21 correct?  
22 A. I believe that's correct.  
23 Q. And what had Delphi projected for the  
24 first quarter of '06 regarding material costs?  
25 A. I believe that it was approximately half

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1 a percent decrease year over year.  
2 Q. But, instead the decrease year over year  
3 was significantly greater than the half  
4 percent projected, correct?  
5 A. That's correct.  
6 Q. So it was closer to the prior year's  
7 experience, correct?  
8 A. It was two percent, I believe, as  
9 compared to the four percent and compared to  
10 the half a percent I just mentioned.  
11 Q. I guess what I'm trying to square is the  
12 half a percent lower projection versus your  
13 testimony this morning that the material costs  
14 came in and did not have the same level of  
15 reductions that you had anticipated?  
16 A. I think what I was describing this  
17 morning was our historical experience at the  
18 four percent level that I was mentioning a few  
19 moments ago. And that the performance that we  
20 expect to see in 2006 is below what we had  
21 historically been seeing at the four percent  
22 level.  
23 Q. So that the actual performance in the  
24 first quarter of '06 was much better for

25 Delphi than you had projected, correct?

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1 A. Versus what we had projected, but less  
2 than our historical experience, yes.

3 Q. Can you tell us what led you to project a  
4 much lower level of material cost reductions  
5 when you were doing your plan than you had  
6 historically recognized?

7 A. The unsettled circumstances associated  
8 with Delphi in the second half of 2005 when  
9 the plan was being put together. Combined  
10 with the uncertain situation with respect to  
11 commodity costs globally.

12 Q. Had you considered, at the time you made  
13 the half a percent projection that you were  
14 making a conservative projection?

15 A. We believe we were making our best  
16 estimate at that point in time, with all the  
17 information we had available to us.

18 Q. Was this another respect in which you  
19 were responding to Rothschild's or anyone  
20 else's suggestion or directive that you make a  
21 worse case assumption?

22 A. No, sir.

23 Q. I beg your pardon?

24 A. No, sir.

25 Q. Was this another instance where departing

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1 from your own actuarial experts projection

2 with regard to OPEB expense, you went off on

3 your own and were simply wrong?

4 A. No, sir.

5 MR. BUTLER: Objection. I don't

6 know what the question is on that one?

7 MR. SIMON: Asked and answered.

8 You're a little late.

9 THE COURT: Either he didn't know or  
10 he disagreed.

11 A. Sorry.

12 THE COURT: He didn't under -- I  
13 don't think he understood the question either.

14 MR. BUTLER: Okay.

15 Q. If you'll turn to paragraph 55 of your  
16 declaration. You state, in paragraph 55 that  
17 your US based workforce dropped from,  
18 approximately, 63,000 hourly employees in 1999  
19 to, approximately, 33,100 hourly employees in  
20 2005. That's a 30,000 employee reduction  
21 between '99 and '05, correct?

22 A. Yes, sir.

23 Q. And that was during the period of time  
24 when your labor contracts that you seek to  
25 reject were fully enforced?

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1 A. Yes, sir.

2 Q. So that you were able to reduce your  
3 workforce by 30,000 employees under the  
4 contracts which you state onerously prevent  
5 the company from taking actions necessary to



6 transform itself, correct?

7 A. The workforce reduction during that  
8 period of time is from 63 to 33.

9 Q. In response to Ms. Mehlsack's questioning  
10 this morning, you stated that the company made  
11 an analysis of its business lines to determine  
12 what products it had that would be  
13 competitive, for which it had the right  
14 technology. And that led to an analysis of a  
15 footprint of manufacturing facilities that  
16 could produce those products, correct?

17 A. Yes, sir.

18 Q. When did you do that?

19 A. It was done over a period of time between  
20 2003 and 2005.

21 Q. So that was done --

22 A. It evolved over time.

23 Q. I'm sorry.

24 A. It evolved over time. Excuse me.

25 Q. So that was done before the development

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1 of the steady state?

2 A. Yes, sir.

3 Q. And was that analysis submitted to the  
4 board of directors?

5 A. It was reviewed by the -- with the board  
6 of directors, yes.

7 Q. And adopted by them?

8 A. I don't recall a specific request for the  
9 board of directors to adopt or to agree to  
10 that -- that analysis. It was --

11 Q. And had that analysis been presented to  
12 the Court?

13 A. I'm not aware.

14 Q. Was that analysis presented to the UAW or  
15 to the other unions?

16 A. I believe that it has been -- I don't  
17 know.

18 Q. What is the relationship between -- is  
19 there a name for that one, like everything  
20 else has. We have a steady state, we have a  
21 transformation, does that analysis of your  
22 core products have a name just so that we  
23 could refer to it easily?

24 A. You know, when we first started off we  
25 talked about it as our product pyramid.

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1 Q. Product pyramid?

2 A. Uh-huh.

3 Q. And is that -- is the product -- what is  
4 the relationship between the product pyramid  
5 and the transformation plan?

6 A. The relationship between the two is that  
7 the analysis that we performed, as to those  
8 product lines in which we believed we had the  
9 right technology, the right expertise to and  
10 the ability to be successful, that those are  
11 the businesses that we wanted to retain and  
12 grow and keep as part of our product portfolio  
13 for the future. Those in which we believe  
14 that we either do not possess the right  
15 technology or the nature of the product is

16 such that we cannot be successful,  
17 manufacturing that product are those that,  
18 ultimately became part of what is referred to  
19 as the non-core product lines.  
20 Q. And contrary-wise, the core product line  
21 and the transformation plan is essentially  
22 derived from or similar to, if not identical  
23 to, the product pyramid, correct?  
24 A. It is the output from it, that analysis  
25 and those considerations by management.

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1 Q. Now, there's been a good deal of  
2 testimony that, by yourself and others, that  
3 the driving consideration for Delphi in  
4 developing and presenting it's section 1113  
5 proposals, has been the perceived need to have  
6 competitive wages and benefits, correct?  
7 A. Yes, sir.  
8 Q. With those competitive wages and benefits  
9 with relation to the competitors that you  
10 would face in your transformed company, or was  
11 that a comparison with regard to your steady  
12 state analysis?  
13 A. I'm sorry, can you ask that question  
14 again, please?  
15 Q. Sure.  
16 A. I apologize.  
17 Q. When Delphi was driven in formulating  
18 it's 1113 proposals --  
19 A. Uh-huh.  
20 Q. -- by the desire to achieve competitive

21 wage rates --

22 A. Yeah.

23 Q. -- were the competitive wage rates that

24 it was driven to --

25 A. Uh-huh.

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1 Q. -- those in the competitor group that you  
2 would face in your transformation plan, or  
3 those that you had faced in your steady state  
4 plan?

5 A. It was focused on those that would be --  
6 let me start differently. Certainly as it --  
7 as the population of competitors that we have  
8 looked at in terms of our transformation plan  
9 represent those that we expect -- we have been  
10 and expect to continue to compete against in  
11 our core product lines. To the extent -- I'm  
12 not aware of specifically, with respect to the  
13 way the US labor agreement and thinking about  
14 the competitiveness, whether there's a  
15 complete overlap it would depend upon whether  
16 they had a US footprint or not.

17 Q. Do you have any idea at all whether the  
18 wages and benefits of your competitors in your  
19 non-core businesses are greater than, lesser  
20 than or more or less the same as those in your  
21 core competitors?

22 A. I do not. We compete for -- we compete  
23 against or we have to have a competitive wage  
24 and benefit package with those of the industry  
25 in genera.

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1 Q. Have you identified, for purposes of your  
2 competitive analysis, the cohort of companies  
3 that you would compete with in your  
4 transformation move?

5 A. Yes, we have.

6 Q. And are they reflected anywhere? Do you  
7 have them?

8 A. Sitting here in front of me?

9 Q. Yes.

10 A. No, I do not believe it I do.

11 Q. Is that the same cohort of competitors  
12 that you competed with in your steady state  
13 scenario?

14 A. Yes. For -- some of them are, yes.

15 Q. Some of them are, but many of them are  
16 not, is that not correct?

17 A. To the extent that they were only -- we  
18 were only competing against them in non-core  
19 business lines and we exit those business  
20 lines, they would not be competitors in the  
21 future.

22 Q. And sitting here today as the chief  
23 restructuring officer, you really don't have  
24 the faintest idea whether the wages and  
25 benefits of those in your core competitor

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1 cohort are great than, lesser than, or more or  
2 less the same than those in your steady state

3 cohort?

4 MR. BUTLER: Objection. Asked and  
5 answered. I wish that question was five  
6 answers ago.

7 THE COURT: No. You can answer  
8 that.

9 A. Perhaps -- could I just ask for a few  
10 less adjectives to try to understand the  
11 question?

12 Q. Well, let's describe the businesses.  
13 What's your core -- what's the core  
14 competitors you're going to be dealing with?  
15 Not the names, but the products.

16 A. Lets just say, generally, technology  
17 related products, audio, engine control  
18 systems, diesel technology, etc.

19 Q. High tech, high IT products, correct?

20 A. Yes, sir, electronic.

21 Q. Do you have a general understanding as to  
22 whether or not the wage level -- wage and  
23 benefit levels for employees in those  
24 industries are greater or lesser than the more  
25 commodity-like industries that you are exiting

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1 as non-core?

2 A. It's not my area of expertise.

3 Q. Do you have any understanding as to  
4 whether or not hourly labor costs as a  
5 percentage of total cost is greater than,  
6 lesser than or more or less the same as  
7 between core and non-core competitors?

8 A. I haven't studied that.

9 Q. Don't they have a significantly higher  
10 investment in -- capital investment  
11 technology, therefore driving, almost  
12 certainly, a lower level of hourly labor  
13 costs? You know that, don't you?

14 A. I'm sorry, can you ask the question  
15 again, please?

16 Q. Paragraph 60 of your declaration, please.  
17 You state that the wage and benefit changes,  
18 including modifications to provide retiree  
19 health and life insurance, would provide  
20 approximately 9.2 billion in cash savings  
21 through 2010, correct?

22 A. Under the competitive benchmark scenario,  
23 that's correct.

24 Q. And is that the total savings that you  
25 have calculated with respect to the

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1 competitive proposal?

2 A. No, sir.

3 Q. Is that all inclusive, a total of 9.2  
4 billion in savings?

5 A. For the wage -- for the wage and benefit  
6 changes.

7 Q. Yeah. Can you break it down for us as  
8 between wages and benefits?

9 A. Not off the top of my head, I cannot give  
10 you the exact numbers, no.

11 Q. Who is it --

12 MR. BULTER: I just want to try to

13 get a sense of things. The witness has been  
14 on the stand for almost three hours at this  
15 point, approaching that. I don't know how  
16 much longer Mr. Simon has to go, but if we're  
17 going to continue this, at some point could we  
18 take a break for 10 minutes. I don't know  
19 when -- what's the right time to do it in your  
20 questioning is --

21 THE COURT: How much time do you  
22 think you have?

23 MR. SIMON: I have got, certainly  
24 more than 10 minutes. I have a bit.

25 THE COURT: Well, more than half an

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1 hour?

2 MR. SIMON: Probably.

3 THE COURT: All right. Well why  
4 don't we -- are you -- let's come to a point  
5 where you're going to be changing topics and  
6 then we'll take a break.

7 MR. SIMON: Yeah, that's right. I  
8 am moving into a different --

9 THE COURT: You're at that point  
10 now?

11 MR. SIMON: Uh-huh.

12 THE COURT: All right. Why don't we  
13 take a -- you're at that point now where  
14 you're going to be changing topics?

15 MR. SIMON: Yes, it's fine.

16 THE COURT: All right. Let's take a  
17 10 minute break. Come back at 12:05.



18 (Recess at 11:45 a.m.)

19 THE COURT: Please be seated. Okay.

20 Let's resume, Mr. Sheehan, you're still under

21 oath.

22 THE WITNESS: Yes, sir.

23 BY MR. SIMON:

24 Q. We've made it to the afternoon. Good

25 afternoon. I think we left and you said you

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1 could not break down for us the 9.2 billion

2 cash savings reflected in paragraph 60 of your

3 declaration, as between wages and benefits,

4 correct? You just don't have that information

5 at your tip?

6 A. That's correct.

7 Q. Can you break it down as between the

8 various unions?

9 A. Not as I sit here today?

10 Q. But that information does exist? Do you

11 know who has that?

12 A. My finance staff would have that

13 information and I believe that it's -- its

14 part of our modeling, but I just don't have

15 that information with me.

16 Q. The 9.2 billion savings is on the basis

17 of a steady state assumption, is that correct?

18 A. It is the savings, assuming the

19 competitive benchmark scenario was

20 implemented, as compared to the steady state

21 scenario.

22 Q. But that's after the transformation plan

23 has been implemented?  
24 A. The competitive benchmark transformation  
25 plan.

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1 Q. Okay. So that it's after you're now only  
2 producing your core products in the plants you  
3 have retained with the reduced workforce that  
4 you have?  
5 A. Yes, sir, as compared to the steady  
6 state.  
7 Q. And so, when you say in paragraph 60, in  
8 the last sentence, "under the assumptions in  
9 the steady state scenario and adjusted for the  
10 revenue pricing assumptions and labor  
11 modifications expected to impact the business  
12 in the competitive benchmark scenario, Delphi  
13 would still have a cash flow shortfall of 3.4  
14 billion between '06 and '10," right, that's  
15 paragraph 60?  
16 A. Yes, sir.  
17 Q. Okay. And the phrase within that  
18 sentence, labor modifications expected to  
19 impact the business in the competitive  
20 benchmark scenario are the labor modifications  
21 proposed in your section 1113 proposal?  
22 A. Yes, sir.  
23 Q. Now in paragraph 62, you state in the  
24 middle of that paragraph -- do you have it?  
25 A. Yes, I do.

1 Q. Okay. Assuming that Delphi would  
2 implement all of the portfolio changes,  
3 including manufacturing site closures and  
4 consolidations identified in the restructuring  
5 plan and discussed below, and that Delphi were  
6 able to implement its proposed labor  
7 modifications, Delphi would still have a cash  
8 flow shortage of approximately 4.6 billion  
9 between '06 and 2010, because of it's pending  
10 funding -- pension funding obligations, which  
11 account for approximately 3.1 of the 4.6. Can  
12 you help us reconcile the 3.4 billion in  
13 paragraph 60 with the 4.6 billion in paragraph  
14 62?

15 A. The paragraph 60 is starting with the  
16 steady state scenario and only adjusting for  
17 the specific changes that are referred to  
18 there in paragraph 60, specifically revenue  
19 and pricing assumptions and labor  
20 modifications. So it is not adjusting for any  
21 of the other initiatives that we have under  
22 our overall transformation plan. Whereas  
23 paragraph 62, as it says in the second  
24 sentence, assuming that Delphi were able --  
25 were to implement all of the portfolio

1 changes, including manufacturing site closures  
2 and consolidations identified in the  
3 restructuring plan and were able to implement

4 its proposed labor modifications. Delphi  
5 would still have a cash flow shortage of 4.6  
6 billion. So it --  
7 Q. So, can you break down for us what the  
8 components and relative values would be for  
9 the differences between the 3.4 billion in  
10 paragraph 60 and the 4.6 in paragraph 62?  
11 A. No, not sitting here off the top of my  
12 head, sorry.  
13 Q. Does paragraph 60 reflect the same 3.1  
14 billion pension funding obligation between '06  
15 and 2010 as paragraph 62 does?  
16 A. I'd have to look at more detail --  
17 Q. I'm sorry?  
18 A. I would have to look at more detail to be  
19 able to answer that question. I would want to  
20 look at more detail to answer your question.  
21 Q. So that as we sit here, you can't tell us  
22 whether paragraph 60 does or does not account  
23 for the pension shortage of 3.1 billion that  
24 you referred to in paragraph 62?  
25 A. In order to answer the question

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1 accurately, I would want to look at more  
2 detail.  
3 Q. Well in paragraph 63, you state that  
4 Delphi's current financial projections show  
5 that it will not have the cash to make its  
6 required pension contribution in '07 and '08,  
7 and that the cumulative minimum funding  
8 obligation between '07 and 2010 would exhaust

9 all of Delphi's available cash during that  
10 period, correct?  
11 A. That's correct.  
12 Q. Harking back to the first few words of  
13 paragraph 63 when you referred to your current  
14 financial projection, which current financial  
15 projection? What plan are we talking about  
16 here?  
17 A. That's referring to the competitive  
18 benchmark scenario that this section of my  
19 declaration is referring to.  
20 Q. Assuming that the transformation plan has  
21 been implemented?  
22 A. That's correct, a competitive benchmark  
23 transformation plan.  
24 Q. And how much are the required pension  
25 contributions in '07 and '08?

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1 A. I believe that -- I believe that in 2007  
2 using existing, excuse me, using the funding  
3 laws that were in effect up until April 15,  
4 2005 and that have not yet been renewed by  
5 congress, that it was -- they were in excess  
6 of two and a half billion dollars in 2007 and  
7 approximately a billion dollars in 2008.  
8 Q. Could I have those numbers again, please,  
9 I just missed it.  
10 A. I believe it's approximately two and a  
11 half billion dollars in 2007, and a billion  
12 dollars in 2008 for both the -- I'm referring  
13 to both the salaried and hourly plans, I

14 believe. Not just simply the hourly plans and  
15 I'm also -- I want to make sure that I'm clear  
16 that it's based upon the law at that time.  
17 Q. And then -- again, just doing some simple  
18 math and looking back to paragraph 62, I guess  
19 I'm trying to reconcile that two and a half  
20 plus one equals 3.5 we just talked about with  
21 the 3.1 referred to in the last sentence of  
22 paragraph 62?  
23 A. That's the entire period 2006 through  
24 2010, and that's only the hourly retirement  
25 plan, not the hourly and salaried plans.

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1 Q. And can you break down for us as between  
2 the salary and hourly?  
3 A. Not off the top of my head.  
4 THE COURT: I'm sorry, so the 4.6  
5 figure does include the full pension  
6 shortfall, including the salaried plan? The  
7 4.6?  
8 A. Yes, sir.  
9 THE COURT: All right.  
10 Q. Jumping if you would, please, to  
11 paragraph 83. You refer there to cash  
12 contributions to the plan of two billion in  
13 2007, in order to emerge from bankruptcy. Did  
14 the figures you just gave us for '07 include  
15 that two billion?  
16 A. Yes, it does.  
17 Q. That is the two billion, it's the same  
18 number there?

19 A. This is only the hourly plan.

20 Q. Okay. So that just to be clear, that two

21 billion is included in the 3.1 billion you

22 referred to in paragraphs 60 and 62?

23 A. Yes, sir.

24 Q. In paragraph 85, I think this is clear, I

25 just want to make sure it is, you discussed

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1 the company's thought process with regard to

2 projections of GM business and with the last

3 two lines on page 35 you say, Delphi's

4 original projections were that it's GM revenue

5 for '06 through 2010 would be, approximately,

6 two billion lower than assumed in the current

7 projection. Was the two billion included or

8 not included in the steady state scenario?

9 A. It is included.

10 Q. So that you assume the higher -- the two

11 billion higher revenue in steady state?

12 A. That is correct.

13 THE COURT: And you made the same

14 assumption for the comparative benchmark

15 projections?

16 A. Yes, sir. The GM volume assumptions are

17 the same.

18 Q. Now the -- harking back to paragraph 62

19 where you identified 3.1 billion of the

20 projected cash shortage from 2006 to 2010, as

21 attributable to your pension funding

22 obligations, you have that with me?

23 A. Yes, sir.

24 Q. Have you calculated what the result would  
25 be if you terminated the hourly pension plan?

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1 A. No, I have not.  
2 Q. Has anyone, if you know?  
3 A. It's not our current intention to -- it  
4 is not our current intention to terminate our  
5 hourly pension plans -- plan.  
6 Q. But you project, forecast and analyze  
7 things even when it's not your current  
8 intention, do you not as a business planning  
9 matter?  
10 A. Yes, we do.  
11 Q. And you have determined that, in the  
12 absence of a pension solution, the company is  
13 not viable, correct?  
14 A. That is correct.  
15 Q. And you have determined that on the basis  
16 of current law that Delphi will not be able to  
17 meet its pension obligations, correct?  
18 A. I would say that that issue is still  
19 being explored. We intend to try to take  
20 advantage of every opportunity that there is  
21 under current law to be able to -- certainly  
22 it's true that we would not be able to achieve  
23 the ERISA minimum contributions. There are,  
24 as one of the other attorney's here this  
25 morning was asking about, there are provisions

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1 in law for relief, and we intend to seek every  
2 opportunity we can to find relief. Whether  
3 that be through legislative action or use of  
4 currently existing law.

5 Q. I'm trying to square that with your  
6 statement.

7 A. Yeah. I was only -- all I was --

8 Q. In paragraph 63, if you turn to that.  
9 Delphi's current financial projection showed  
10 it will not have the cash to make its required  
11 pension contributions in 2007 to 2008 and that  
12 the cumulative minimum funding obligation  
13 between '07 and 2010 would exhaust all of  
14 Delphi's available cash during that period?

15 A. Yeah. The only distinction I was making  
16 for you was the difference between what our  
17 minimum funding obligations are and trying to  
18 take advantage of existing relief that is in  
19 law, that we would be able to potentially  
20 receive from the United States government. Am  
21 I clear about what --

22 Q. Under existing legislation?

23 A. Under ERISA minimum contribution law. We  
24 are not capable, in our opinion, of funding  
25 those amounts as they are otherwise due. But

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1 there are provisions in law that provide for,  
2 potentially, receiving relief and we will seek  
3 to take advantage of every opportunity there  
4 is.

5 Q. No, I'm sorry. First you say under

6 existing law there isn't then you say under  
7 existing law there is. Is your  
8 understanding --

9 MR. BUTLER: Objection. That wasn't  
10 the testimony.

11 MR. SIMON: Then can we reread the  
12 testimony. I want the witness to have every  
13 opportunity to recon --

14 THE COURT: He was making a  
15 distinction between minimum funding  
16 contributions and the potential to get a  
17 waiver of them.

18 A. Thank you.

19 MR. SIMON: Well, but the  
20 possibility of waivers either exists or does  
21 not exist under existing law?

22 THE COURT: But he says he thinks it  
23 does exist under existing law, at least he's  
24 exploring it.

25 BY MR. SIMON:

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1 Q. Has the company explored the availability  
2 to it of the waivers that you've described?

3 A. We are exploring it.

4 Q. Have you had meetings with the  
5 appropriate government officials regarding the  
6 availability to you of a waiver?

7 A. Yes, we have.

8 Q. And are those conversations continuing?

9 A. Yes, they are.

10 Q. And have they outlined to you

11 requirements that you would have to fulfill in  
12 order to be considered for the waivers?

13 A. Not -- the discussions have not  
14 progressed to that stage yet.

15 Q. And notwithstanding the uncertainty as we  
16 sit here today, of the availability to you of  
17 waivers that you believe might give you some  
18 relief, the company has made no analysis of  
19 the savings it would achieve if it terminated  
20 the plan?

21 MR. BUTLER: Objection. Asked and  
22 answered.

23 THE COURT: Well, I'd like to hear  
24 it again.

25 A. I think we -- I would say to you is that,

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1 yes. We understand what -- we understand  
2 what the pension obligations that we have are  
3 and we understand what the pension expense  
4 amounts that are included in both the steady  
5 state and transformation models are. And we  
6 also recognize that if we terminate the  
7 pension plan, or plans, that those costs would  
8 not be incurred

9 Q. And how much costs would not be incurred  
10 if you terminated the pension plan?

11 A. The current under-funding of the pension  
12 plan is approx -- pension plans is,  
13 approximately, four billion dollars. Two and  
14 a half billion in the hourly and I believe,  
15 about a billion and a half on the salaried in

16 those order of magnitude. And there's,  
17 approximately, I believe, six to seven hundred  
18 million dollars of expense for both the hourly  
19 and salaried plans in the projections of  
20 expense in future periods. If those plans  
21 didn't exist because they had been terminated,  
22 there would be no -- those obligations  
23 wouldn't exist and the expense wouldn't exist.  
24 So, you know, we understand what --

25 THE COURT: But have you calculated

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1 the termination liability?

2 A. Yes, but that wouldn't -- yes, we have.

3 THE COURT: Okay.

4 Q. How much of the 3.1 billion of net  
5 funding obligations between 2006 and 2010 set  
6 forth in paragraph 62 of your declaration,  
7 would be dealt with by termination of the  
8 pension plan?

9 A. I'm sorry --

10 Q. Paragraph 62 --

11 A. -- start at the beginning -- the question  
12 again, please, I'm sorry.

13 Q. How much of the 3.1 billion --

14 A. Uh-huh.

15 Q. -- pension funding obligations that you  
16 described in the last sentence of paragraph  
17 62, would be erased by pension termination?

18 A. I believe it all would.

19 Q. Yeah. So that instead of a 4.6 billion  
20 dollar shortage, you would be left with a 1.5

21 billion dollar shortage, correct?  
22 A. Yes, sir.  
23 Q. And that's as compared with what, the  
24 eight billion dollar shortage that you had  
25 developed as an analytic tool in connection

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1 with your steady state analysis?  
2 A. The steady state scenario --  
3 Q. Yes.  
4 A. -- showed an eight billion dollar  
5 negative cash flow over the period 2006  
6 through 2010.  
7 Q. Now, have you analyzed, or has anyone  
8 analyzed for you, the impact on your hourly  
9 employees if you were to terminate the hourly  
10 pension plans?  
11 A. I think that we have discussed and we  
12 understand that what the impacts could be,  
13 yes.  
14 Q. And what is your understanding?  
15 A. I think that for a significant percentage  
16 of our hourly workforce that, if we were to  
17 terminate the pension plan, the plan would be  
18 assumed by the pension benefit guarantee  
19 corporation. And in the first instance the  
20 employees would collect the -- their pension  
21 from the PBGC up to the PBGC's guaranteed  
22 amounts over and above the -- that, for a  
23 substantial portion of our employee base --  
24 hourly employee base, there exists benefit  
25 guarantee agreements with General Motors,

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1 which would, I believe, obligate General  
2 Motors for paying additional amounts to them  
3 to replicate the benefits they would receive  
4 under the GM plan.

5 Q. So for the very substantial percentage of  
6 hourly workers, they would suffer no loss of  
7 benefit if you were to terminate the pension  
8 plan, correct?

9 A. Presuming that it operated the way I  
10 described.

11 Q. Yes. And the company would realize a 3.1  
12 billion dollar savings if it were to terminate  
13 the plan as compared with funding obligations  
14 if it did not terminate the plan, correct?

15 A. Yes, sir.

16 Q. Can you help us understand why, in view  
17 of the fact it would not impact the very  
18 substantial number of your employees and would  
19 save you 3.1 billion dollars in funding  
20 obligations, you have not pursued that  
21 alternative?

22 A. We have -- I think that we have looked at  
23 what is the -- for prospectively for the labor  
24 agreement, what is necessary and we've  
25 proposed a competitive wage and benefit

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1 package, prospectively. And then we have

2 looked at the obligations that currently exist  
3 and those that we would be able to retain.  
4 And as I described, be able to retime those  
5 payments under the pension with the United  
6 States government with the PBGC and it's  
7 related -- other related agencies of the  
8 United States government, such that the  
9 company was able to develop a viable business  
10 plan to emerge from bankruptcy. And we  
11 believe that we can do that.

12 Q. My question to you was, why if your  
13 employees are not being negative impacted and  
14 you can save 3.1 billion dollars over the next  
15 five years, you have not chosen to do that.  
16 Is it not a fact, Mr. Sheehan, that you've  
17 chosen not to do it because you want to avoid  
18 control group liability, being imposed by the  
19 PBGC for your non-American facilities?

20 A. No.

21 Q. That's clearly why you haven't done it,  
22 isn't it?

23 A. No, sir.

24 Q. Tell us then, why you haven't?

25 A. Because, I believe that the standard to

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1 be able to, while I'm not a lawyer, the  
2 standard to be met to be able to terminate the  
3 pension plan is a higher standard than the one  
4 that we are discussing under this motion. And  
5 is a so-called but-for test and we believe  
6 that with the plans that we've outlined, that

7 if we were able to achieve the -- those plans,  
8 as we've set forth in our transformation plan,  
9 we would be able to retain the pension.

10 Q. But my question to you is, why would you  
11 want to? What do you accomplish by retaining  
12 it, since it's not benefiting your employees  
13 and it is costing you 3.1 billion dollars?

14 A. I think that -- I guess what I would say  
15 is, that the -- our obligation is to look at a  
16 transformation plan that allows the company to  
17 emerge from reorganization and deal with the  
18 obligations that it has and that -- to the  
19 extent that a -- that a plan can be emerged.

20 Just because an agreement exists between  
21 the -- certain of the hourly employees in  
22 General Motors, that that shouldn't enter into  
23 our thinking about how the company itself will  
24 deal with its obligations.

25 Q. So that as between two alternatives.

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1 One, not impacting your employees and saving  
2 3.1 billion on the one hand, and on the other,  
3 slashing your employees wages and benefits  
4 down to 12.50 an hour, you believe that it's  
5 your obligation to do the latter, rather than  
6 to pursue the former?

7 MR. BUTLER: Objection, foundation.  
8 That's not the testimony and that's not what  
9 the plans say.

10 THE COURT: Well, let me ask it a  
11 little differently because I wasn't sure I



12 understood your answer, Mr. Sheehan. I think  
13 I understood your answer to say that you  
14 didn't want to create new obligations, and  
15 that's why you wouldn't be seeking to  
16 terminate the pension plan, is that right?  
17 Triggering obligations, like triggering the GM  
18 guarantee and triggering termination  
19 liability?  
20 A. No. I don't think I was trying to say  
21 that we didn't want to trigger the benefit  
22 guarantee agreement. I think what I was  
23 trying to say was that, as I understand the  
24 bankruptcy law, the test to be able to  
25 terminate a pension plan is a higher standard

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1 than the one we discussed here today. And we  
2 believe that, if we were able to implement the  
3 transformation plan that we've outlined, that  
4 we can successfully emerge from  
5 reorganization. So, I think that our ability  
6 to actually terminate -- to be able to  
7 successfully terminate the pension plan is not  
8 necessarily as clear as we believe this  
9 discussion is and, therefore, we have been  
10 pursuing, rather than terminating the plan, we  
11 have been pursuing an alternative of  
12 stretching out of the pension contributions  
13 using, either a legislative solution or  
14 existing waivers and other provisions of law  
15 that may be available to us. Whether or  
16 not -- again, you know, I will not profess to

17 be a lawyer but, whether or not we can, in  
18 making our decisions about our transformation  
19 plan, whether we can look at agreements to  
20 which we're not a party, I'll leave for  
21 lawyers to consider.

22 THE COURT: Okay. You want to go  
23 back to your question then. Or a similar  
24 question?

25 MR. SIMON: I think the witness's

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1 answer and non-answer speaks eloquently, just  
2 think control group.

3 MR. BUTLER: Move to strike, Your  
4 Honor.

5 THE COURT: I don't think that's --.

6 MR. SIMON: Withdrawn.

7 THE COURT: Okay.

8 Q. Let's explore. Are you familiar with  
9 control group liability imposed by the PBGC on  
10 terminated plans?

11 A. I'm generally familiar.

12 Q. And are you familiar with the fact that  
13 the PBGC liability extends not only to your  
14 American facilities but would also extend to  
15 your worldwide facilities?

16 A. Yes, sir.

17 Q. And no part of your approach to this  
18 problem is reflected by -- is reflective of a  
19 corporate desire to protect its non-American  
20 subsidiaries from PBGC reek?

21 A. I -- no, sir. I explained our rationale.

22 Q. Addressing --

23 THE COURT: I'm sorry. If I

24 understood your answer to my question

25 correctly, well, correct me if I'm wrong, are

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1 you saying that the decision not to, at this  
2 point, actively to seek to terminate the plan  
3 is based on an analysis that you might not be  
4 successful in terminating the plan, unless you  
5 had pursued an interim step which is to modify  
6 collective bargaining agreements and benefits  
7 and implement a transformation of the  
8 business. Is that what you're saying? That  
9 the PBGC wouldn't approve termination unless  
10 you've done that first?

11 A. I think that in order for the company to  
12 be viable in the future it has to modify  
13 its and make competitive its wage and benefit  
14 labor agreements. And the -- it would not be  
15 -- let's take a reverse situation where we  
16 were do not pursue what we're sitting here  
17 today discussing but rather just simply pursue  
18 termination of the pension plan. That  
19 wouldn't fix the company. So -- and make it a  
20 viable business enterprise. So we have to  
21 pursue this motion in order for the company to  
22 be -- labor agreements to be competitive. The  
23 second question of whether just taking a  
24 second step of terminating the pension plans,  
25 I think I agree with what you're -- that you

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1 correctly summarized what I said. Which was I  
2 don't know that we believe we would be  
3 successful given that the first step has to  
4 take place.

5 THE COURT: Okay.

6 Q. Are you aware what other unions in  
7 similar circumstances have done in both  
8 collective bargaining and Section 1113  
9 collective bargaining with regard to pension  
10 termination?

11 A. No, not specifically.

12 Q. Does it occur to you that the unions  
13 might have an interest in pursuing solutions  
14 with the company that would save it 3.1  
15 billion dollars and perhaps reduce the level  
16 of concessions you were otherwise seeking?

17 A. I think that we can discuss all  
18 alternatives to be able -- for this company to  
19 be competitive in the future.

20 Q. What is -- or what was Delphi's U.S.  
21 hourly labor expense order magnitude for 2005,  
22 something in excess of 3 billion dollars sound  
23 about right?

24 A. In terms of the gross number of hourly  
25 labor expense?

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1 Q. Yes.

2 A. I would say that's in the order of  
3 magnitude.

4 Q. And order of magnitude, how much will the  
5 company save in its hourly labor expense  
6 purely from its reduction of the work force  
7 from the 31 or 33 thousand today to the 5700  
8 projected in 2010. Does something order of  
9 magnitude of 2.4 billion sound about right?

10 A. I don't know off the top of my head, it  
11 may be accurate.

12 THE COURT: I'm sorry. What was  
13 your number again, Mr. Simon?

14 MR. SIMON: 2.4.

15 THE COURT: And was that annually or  
16 over the four or five year period?

17 MR. SIMON: Annual.

18 Q. Do you have any idea -- does this sound  
19 right, order of magnitude again, that the 2010  
20 U.S. hourly labor expense under your scenario  
21 is less than 500 million dollars?

22 A. I don't know. I'd have to see more  
23 detail to know.

24 MR. SIMON: One moment please, Your  
25 Honor. Nothing further, thank you.

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1 THE COURT: Okay.

2 MR. KURTZ: Your Honor, Glenn Kurtz  
3 on behalf of the ad hoc committee of equity  
4 holders. Good afternoon.

5 CROSS EXAMINATION BY

6 MR. KURTZ:

7 Q. Mr. Sheehan.

8 A. Mr. Kurtz.

9 Q. As you may have anticipated, I want to  
10 talk to you about the ability to fund the OPEB  
11 benefits until expiration the CBA's.  
12 A. We've talked about that before.  
13 Q. Yes. And to put this discussion in  
14 context, there is a trend in the auto parts  
15 industry towards eliminating or at least  
16 substantially reducing OPEB benefits, correct?  
17 A. That is correct.  
18 Q. And you certainly expect that Delphi will  
19 eliminate or at least substantially reduce  
20 OPEB benefits in any new agreement with the  
21 unions, correct?  
22 A. Yes, sir.  
23 Q. Do you know what it would cost the  
24 debtors to fund the OPEB benefits until  
25 expiration of the CBA's?

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1 A. Our annual funding obligations for  
2 OPEB -- we pay OPEB, we pay post-retirement  
3 medical expenses as they were incurred, a pay  
4 as you go. So it's not a funding per se as  
5 much as it is paying of medical costs as they  
6 are incurred by the retiree population. And  
7 that's averaging a little bit over 200 million  
8 dollars per year. So as we sit here with  
9 approximately 17 or 18 months to go until  
10 expiration of the CBA's it would be  
11 approximately 300 million dollars.  
12 Q. Okay. About a 300 million dollar cost to  
13 continue the OPEB benefits until expiration of

14 the CBA's, correct?

15 A. Yes, sir.

16 Q. And as you testified in response to

17 questions from Mr. Simon, the debtors

18 presently have cash and available credit of

19 approximately 3.6 billion dollars, correct?

20 A. In that order of magnitude, yes.

21 Q. And that is exclusive of any available

22 credit for the following operations, correct.

23 A. Yeah, there's not that much of actual

24 available credit. It's mostly drawn from

25 borrowings.

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1 Q. Do you know what the available credit is

2 for foreign operations?

3 A. It's in the hundreds of millions of

4 dollars.

5 Q. How many hundreds of millions of dollars?

6 A. It's, I believe, less than 500 million.

7 I don't know the number specifically off the

8 top of my head.

9 Q. Okay. So including cash and credit, both

10 for U.S. and foreign operations, in fact, the

11 debtors have some 4.1 billion dollars

12 available at this time, correct?

13 A. In that order of magnitude.

14 Q. Okay. And do the foreign operations have

15 debt capacity in addition to the available

16 credit in place today?

17 A. I would expect they would, yes.

18 Q. You would concede that the foreign

19 operations are highly profitable, correct?

20 A. Yes, sir.

21 Q. In fact, I think you're projecting some

22 3.5 billion dollars in operating income over

23 the next five years or so from foreign

24 operations alone, correct?

25 A. Yes, sir.

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1 Q. And so the foreign operations have

2 substantial debt capacity, correct?

3 A. They have debt capacity, yes.

4 Q. Substantial debt capacity, correct?

5 A. I don't know. I'd have to consider -- I

6 don't know what substantial means. But, yes,

7 they have debt capacity, yes.

8 Q. Do the foreign operations have debt

9 capacity in the billions of dollars?

10 A. I don't know.

11 Q. You understand that the foreign

12 operations are projected to have operating

13 income of some 700 million dollars this year?

14 A. I do.

15 Q. So that will also turn out further cash

16 to fund the debtor's U.S. operations if

17 necessary?

18 A. Yes, sir.

19 Q. Okay. So, certainly, the debtors have

20 sufficient cash and access to cash to fund

21 operations including OPEB benefits for some

22 period of time into the future, correct?

23 A. For some period of time into the future,



24 yes.

25 Q. I mean, the debtors are in no cash crisis

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1 today, correct?

2 A. Not today.

3 Q. And the debtors, of course, monitor their  
4 financial condition and their liquidity on a  
5 daily basis, correct?

6 A. Yes.

7 Q. So the debtors will have ample notice of  
8 any deterioration in their financial condition  
9 on a real time basis, correct?

10 A. Yes, sir.

11 Q. And will have ample opportunity to come  
12 into court and address those needs, correct?

13 A. I can't really say whether it would be  
14 ample or not. It would depend upon the  
15 circumstances at that time.

16 Q. Are you aware of any contingencies that  
17 could materially impact the debtor's financial  
18 condition as of today, where it has access to  
19 more than four billion dollars prior to the  
20 debt -- utilizing debt capacity at the foreign  
21 operations?

22 A. I think that would depend upon the  
23 situation at that point in time and whether  
24 all --

25 Q. My question is, are you aware of any such

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1 contingencies?

2 MR. BUTLER: Objection. Can he  
3 answer the question.

4 MR. KURTZ: I don't believe he was  
5 being responsive, Your Honor.

6 THE COURT: Well, what was your last  
7 question again?

8 MR. KURTZ: My question is whether  
9 he can identify any contingencies today that  
10 would substantially deteriorate the debtor's  
11 financial condition. In light of its 4.1  
12 billion dollars of access to cash without  
13 including the debt capacity for the foreign  
14 entities?

15 A. I cannot, but I also would recom --

16 Q. Thank you. The debtors are more than  
17 five hundred million dollars ahead of plan  
18 with respect to U.S. operations in the first  
19 quarter alone this year, correct?

20 A. Yes, sir.

21 Q. By the way, what is the debtor's EBITDA  
22 from the filing of the bankruptcy in October  
23 2005 through the most current information  
24 available to you?

25 A. I don't know that number.

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1 Q. Is it a positive number or a negative  
2 number?

3 A. I really -- I don't know the number.

4 Q. So you certainly can't say that the

5 debtor's have operated along the last half  
6 year with negative earnings, correct?  
7 A. No. We have absolutely had negative  
8 earnings. We have definitely had operating  
9 losses in our U.S. operations and since the  
10 time of filing.  
11 Q. On an EBITDA basis?  
12 A. I don't know the number.  
13 Q. You can not say that the company is  
14 operating at a negative EBITDA in the last six  
15 months or so, correct?  
16 A. I cannot say that.  
17 Q. I just want to make clear for my  
18 understanding and for the record a couple of  
19 things about your projections. What document  
20 reflects the debtor's best estimate of future  
21 material costs?  
22 A. The best estimate of our future material  
23 costs at the current time is our three plus  
24 nine forecast. As -- which was with respect  
25 to the year 2006, and then was extrapolated

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1 out through the period '07 through '10.  
2 Q. And are the debtor's confident in the  
3 projections reflected in that document?  
4 A. Based upon the current economic  
5 conditions.  
6 Q. And you are personally confident in the  
7 projections set forth in the nine, three  
8 document?  
9 A. Three plus nine.

10 Q. Three plus nine document, I'll look  
11 backwards.  
12 A. They are our best estimate recognizing  
13 the unsettled circumstances both with respect  
14 to the company and to commodity cost in  
15 general.  
16 Q. And including your best estimate, is that  
17 correct?  
18 A. They are my best estimate as well as that  
19 of the company.  
20 Q. Okay. Are they also the best estimate of  
21 your financial advisors and other consultants?  
22 A. I believe so.  
23 Q. And what document reflects the debtor's  
24 best estimate of pension obligations?  
25 A. Again, the three plus nine forecast which

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1 is an operating forecast but reflects the  
2 results of the 2005 actuarial evaluation that  
3 was performed by our outside actuaries.  
4 Q. And, again, the debtors are confident of  
5 the three plus nine forecast with respect to  
6 pension obligations?  
7 A. Yes, sir.  
8 Q. And it represents your best estimate  
9 personally as well?  
10 A. Yes, sir.  
11 Q. And it represents the best estimate of  
12 the financial advisors and other professional  
13 consultants for the debtors, correct?  
14 A. I believe so.

15 Q. All right. And what document reflects  
16 the debtor's best estimate of future GM market  
17 share?  
18 A. The -- our -- the steady state scenario  
19 which, quite honestly, hasn't been -- that  
20 matter hasn't been readdressed and is still  
21 our best estimate.  
22 Q. And the debtors are confident in their  
23 projections of GM market share as set forth in  
24 steady state projections?  
25 A. As confident as you can be in that type

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1 of a projection.  
2 Q. And you, personally, are confident of  
3 those projections?  
4 A. It is our best estimate.  
5 Q. And it is the best estimate for the  
6 debtor's financial advisors and other  
7 professionals, correct?  
8 A. I believe so.  
9 Q. What document represents the debtor's  
10 best estimate of future Delphi content for GM  
11 vehicle numbers?  
12 A. Again, the steady state scenario which,  
13 to the best of my knowledge, we have not  
14 revised since that time.  
15 Q. And the debtors remain confident in the  
16 steady state projection -- steady state  
17 projections with respect to Delphi's content  
18 for GM vehicle?  
19 A. Yes, sir.

20 Q. And that's your best estimate as well?

21 A. Yes, sir.

22 Q. And the best estimate of the debtor's  
23 financial advisors and other professionals,  
24 correct?

25 A. I believe so.

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1 Q. And which document represents the  
2 debtor's best estimate of future revenues from  
3 GM? And just to make this go quicker, cash  
4 flows and sales and EBITDA as well?

5 A. With respect to revenues from General  
6 Motors we projected in the steady state  
7 scenario our expectation of General Motors  
8 revenue. As well as in the competitive  
9 benchmark and the GM consensual scenarios.  
10 There are many factors that go into the  
11 estimation of what GM revenue will be, not  
12 just simply what product they're selling but  
13 also volumes and pricing and product winds and  
14 so forth. And that estimate was updated in  
15 the three plus nine forecast for 2006. It is  
16 my best estimate, etcetera.

17 Q. It's your best estimate, it's the best  
18 estimate -- the debtors are confident in it.  
19 It's the best estimate of your financial  
20 advisors and other consultants, correct?

21 A. As it relates to the first two, yes. And  
22 as it relates to the financial advisors, I  
23 believe so and we'll let that apply to the  
24 remaining topics that we're going to discuss

25 next. So I think your next one was --

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1 Q. Cash flows.

2 A. Cash flows would be the three plus nine  
3 forecast that we recently prepared and then  
4 projected out through 2007 through 2010.

5 Q. And sales?

6 A. Sales in total, including General Motors,  
7 would be the steady states scenario as  
8 adjusted by the three plus nine forecast.

9 Q. And EBITDA projections?

10 A. The three plus nine forecast.

11 Q. And then in combination the company is  
12 still confident of its three plus nine  
13 projections with respect to those items,  
14 correct?

15 A. As I explained to one of the other  
16 lawyers that is the most up to date forecast  
17 we currently have.

18 Q. And it reflects your personal opinion  
19 with respect to those subject matters,  
20 correct?

21 A. Yes, sir.

22 Q. And the best estimate, as well, of your  
23 financial advisors and other consultants,  
24 right?

25 A. I believe so.

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1 Q. And then the last question along these

2 lines, what document represents the debtor's  
3 best estimate of future health care trend  
4 rates?

5 A. The steady state projections.

6 Q. Now didn't the company put together a FAZ  
7 106 report?

8 A. The company's actuaries prepared a  
9 actuarial evaluation under the provisions of  
10 FAZ B 106 as of 12/31/05.

11 Q. And doesn't the company have to adopt and  
12 ultimately make the determination as to the  
13 reasonableness of the FAZ 106 report.

14 A. The FAZ 106 actuarial evaluation is  
15 valuing the liability as the OPEB liability as  
16 of December 31, 2005.

17 Q. The FAZ 106 report was filed in something  
18 like March 31, 2006, correct?

19 A. It was prepared. I don't know what you  
20 mean by filed?

21 Q. Was the FAZ 106 report, in fact, filed  
22 with the SEC?

23 A. No, sir.

24 Q. Is it your understanding the FAZ 106  
25 reports are to be filed with the SEC?

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1 A. No, sir.

2 Q. And were you here during the equity  
3 committee proceedings when your actuarial  
4 expert, Keith Williams, testified that that is  
5 precisely the purpose for filing a FAZ 106  
6 report?



7 A. That's not my recollection of the  
8 testimony.  
9 Q. But we have it in the record --  
10 A. Or my understanding of --  
11 Q. We'll go over that. You understand that  
12 a FAZ 106 report, by definition, is the best  
13 estimate by the company of its healthcare  
14 trend rate projections?  
15 A. It is under the provisions of FAZ 106,  
16 yes. I do.  
17 Q. There's no authority you can cite that  
18 would tell you that the company's best  
19 estimate of the health trend rates for  
20 purposes of FAZ 106, for purposes of public  
21 filings and publication would differ based on  
22 any other purpose including your steady state  
23 projections, are you?  
24 A. I'm sorry, ask that question again?  
25 Q. Can you identify any authority that says

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1 you tell the SEC and the public what your best  
2 estimate of health care trend rates are, but  
3 you do something different in connection with,  
4 you know, the bankruptcy proceedings or any  
5 other purpose?  
6 A. I think that the FAZ 106 actuarial  
7 evaluation was prepared by our actuaries and  
8 being used in our accounting for the  
9 purpose -- for those purpose and it is in  
10 accordance with the requirement of GAP. As it  
11 relates to the company's business plan and the

12 assumptions underlying its business plan,  
13 those assumptions take into consideration  
14 actual past experience that we've seen with  
15 respect to healthcare inflation. And take  
16 that into consideration in thinking about what  
17 the potential expense could be in future  
18 periods.

19 Q. Your actuaries, likewise, were aware of  
20 and took into account your actual experience  
21 in determining a FAZ 106 liability, correct?

22 A. They not only --

23 Q. Is that correct?

24 A. -- took interest.

25 Q. They did so, yes.

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1 A. I don't know.

2 Q. You don't know. And you're confident  
3 that it is not the company's FAZ 106 report,  
4 it is simply the actuaries report?

5 A. The actuarial evaluation was prepared by  
6 the company's actuary, Watts & Wyatt, based  
7 upon demographic data provided to the actuary  
8 by the company and using assumptions with  
9 respect to future experience.

10 Q. And then the resulting calculations and  
11 the report were adopted by the company,  
12 correct?

13 A. They are used by the company in its  
14 actual GAP accounting, yes.

15 Q. And they were used with respect to  
16 whatever filing and publications made of the

17 FAZ 106 report which you are presently  
18 disputing, correct?

19 MR. BUTLER: Objection, foundation.

20 A. No, I'm not disputing, Mr. Kurtz.

21 MR. BUTLER: He said disputing, I  
22 don't know what that means.

23 MR. KURTZ: I believe the witness  
24 has disputed that the FAZ 106 report is made  
25 publicly available and filed with the SEC,

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1 directly contradicts certain testimony we've  
2 submitted in the record from the equity  
3 committee --

4 THE COURT: That wasn't what your  
5 question was.

6 MR. KURTZ: Well that's what I  
7 intended it to be. I'll rephrase, Your Honor.

8 THE COURT: Okay.

9 Q. But let me just make sure I'm clear about  
10 this. Do you dispute that the FAZ 106 report,  
11 the company's best estimate of health care  
12 trends is submitted to the SEC and is made  
13 publicly available to the world?

14 A. My understanding is that the actual  
15 actuarial valuation report, prepared by Watson  
16 Wyatt, is not filed with the SEC. What we do  
17 with the actuarial evaluation report is we use  
18 that for purposes of our GAP accounting and  
19 financial statement disclosures.

20 Q. Okay. So the FAZ 106 report -- that the  
21 conclusions that are reflected in the FAZ 106

22 report, including the cost for healthcare  
23 trend rates is included within the company's  
24 financial statements, correct?  
25 A. Yes, sir.

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1 Q. Okay and those financial statements are  
2 filed with the SEC, correct?  
3 A. Yes, sir.  
4 Q. And those financial statements are made  
5 publicly available, correct?  
6 A. Yes, sir.  
7 Q. And now I'm asking you to identify  
8 authority which would allow the company to  
9 create a different estimate of its healthcare  
10 costs and the one that's included in the  
11 company's financial statements?  
12 A. The company's financial projections are  
13 prepared based upon the company's estimates of  
14 the future.  
15 Q. Can you just cite any authority for the  
16 notion that the company's best estimate of its  
17 future health trend rates and its cost and  
18 liabilities associated with that will differ.  
19 Depending upon whether you're using them to  
20 disclose to the public and to the SEC as  
21 compared to when you use them here in Court  
22 for your own purposes?  
23 A. I'm not aware of an authority that  
24 governs financial projections.  
25 Q. All right. Let me move to the debtor's

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1 intention with respect to this rejection  
2 motion. The debtor's are continuing to  
3 negotiate with the unions, correct?  
4 A. Yes, sir.  
5 Q. And the debtor's intend to continue to  
6 negotiate with the unions irrespective of  
7 whether this Court grants this application to  
8 reject the CBA's, correct?  
9 A. It is our desire to reach a consensual  
10 solution to these issues.  
11 Q. The debtor's intent to continue to  
12 negotiate with the unions irrespective of  
13 whether the Court grants this application to  
14 reject the CBA's, correct?  
15 A. Yes, sir.  
16 Q. And the debtor's have no present  
17 intention of unilaterally imposing new  
18 compensation terms on the union members,  
19 correct?  
20 A. I believe that's what Kevin Butler  
21 testified, yes.  
22 Q. And you agree with Mr. Butler's testimony  
23 in that respect, correct?  
24 A. I think that we recognize that --  
25 Q. Yes?

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1 A. Yes.  
2 Q. And the debtors, in fact, intend to

3 provide the same compensation provided for  
4 under the CBA's to the union members pending  
5 these further negotiations, correct?

6 A. Yes, sir.

7 Q. If no agreement can be reached, do the  
8 debtors intend ever to unilaterally impose new  
9 compensation terms on union members?

10 A. I believe that we would not be able to  
11 sustain paying the current wage and benefits  
12 to the union employees. And therefore, there  
13 has to be a point in time where the world  
14 changes.

15 Q. Well, but my question is whether the  
16 debtors ever intend to unilaterally impose new  
17 compensation terms on the unions?

18 A. We would certainly hope that that day  
19 never comes.

20 Q. Okay. Putting aside your hope, do the  
21 debtor's have an intention to ever  
22 unilaterally impose new compensation terms on  
23 the unions?

24 A. I can't speculate about that. There's  
25 too many variables involved.

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1 Q. You are not aware, as the chief  
2 restructuring officer, the acting CFO, and  
3 active participant in the negotiations and in  
4 the bankruptcy of any intent by the debtors to  
5 ever unilaterally impose new compensation  
6 terms on the unions, correct?

7 A. No deadline has been set to do that,

8 that's correct.

9 Q. Have you considered a deadline for  
10 imposing -- strike that. If you tell me no  
11 deadlines been set then you are implying to me  
12 that, in fact, the debtors do intend to  
13 unilaterally impose new compensation terms at  
14 some point, is that right or wrong?

15 A. We're in a very complicated situation  
16 here with more constituencies than just  
17 ourselves to be consid -- to consider. And  
18 the estate is losing money and cannot lose  
19 money forever. And, therefore, we don't  
20 intend to unilaterally impose.

21 Q. Okay. You do not intend to unilaterally  
22 impose new compensation on the term -- new  
23 compensation terms on the unions at any point  
24 in time, correct?

25 A. I don't know how to better answer the

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1 question at the current time.

2 Q. Well, I'll make it easy. It will be a  
3 yes or no question. Do the debtors intend to  
4 ever unilaterally impose new compensation  
5 terms on the unions? Time is elapsing.

6 MR. BUTLER: Objection.

7 A. I apologize. I just don't how to answer  
8 that as a yes or no question. I think that  
9 I'd have to elaborate more and so --

10 MR. KURTZ: Your Honor, can --

11 THE COURT: It's not really  
12 susceptible to a yes or no answer because it

13 uses the word intent. That's the problem.  
14 You've tried to ask it in a way that would  
15 have been a yes or no answer and he hasn't  
16 answered that one either. But you can go back  
17 -- let me ask you. Are there scenarios in  
18 which you would impose, unilaterally,  
19 compensation or other terms on the unions?  
20 A. Your Honor, the company has commitments  
21 to its customer base and it has to meet those  
22 commitments. And so, we recognize the risk  
23 associated with labor disruption. And we want  
24 to find a consensual solution. I also  
25 recognize that the company's losing money

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1 every day and that there would be  
2 constituencies in our bankruptcy case, such as  
3 our creditors that may not accept, and would  
4 not accept losing -- continuing to lose that  
5 money. And so, you have to balance between  
6 how to impose and still continue to not  
7 disrupt the entire automotive industry. And  
8 as a result, destroy more value than you  
9 create. And it's a very complex situation as  
10 I know you're fully aware of. So I don't know  
11 how to answer the question, quite honestly.  
12 We wake up every morning and evaluate the  
13 situation.

14 THE COURT: Okay.

15 Q. Let me try it this way. Irrespective of  
16 whether this Court grants the present motion  
17 for relief under 1113 and 1114 of the



18 Bankruptcy Code the debtor's have no intention  
19 of imposing, unilaterally, the resulting terms  
20 on the unions, correct?

21 A. Haven't I answered that --

22 MR. BUTLER: Objection. I think it  
23 was asked and answered. The Court asked the  
24 questions.

25 MR. KURTZ: It's been asked,

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1 including by Your Honor. It's not answered.  
2 We've heard about complexities, we haven't  
3 heard about -- everyone has to --

4 THE COURT: Well, he agreed with you  
5 that they presently don't intend to do that.  
6 Having considered over the last five or ten  
7 minutes is that still your view that you  
8 presently do not intend to unilaterally  
9 impose?

10 A. That's correct. And I believe that's  
11 consistent with what Kevin Butler discussed.

12 Q. And presently there are no circumstances  
13 that the debtor's anticipate pursuant to which  
14 they would unilaterally impose new  
15 compensation terms irrespective of this  
16 Court's ruling, correct?

17 A. I don't know that I can say that there  
18 are no circumstances in which we would do so.

19 Q. Okay. Then identify the circumstances  
20 for us?

21 A. If we get to a point in time in the  
22 future where the company can find no solution

23 together with its unions and General Motors to  
24 the current discussions, where it is -- where  
25 its liquidity is evaporating or has been used

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1 up, we'll have to consider drastic  
2 circumstances. But those days are still in  
3 front of us and we hope not to get that to  
4 those days and we are a responsible management  
5 team that doesn't intend to get there.

6 Q. Has the board of directors ever discussed  
7 the idea of imposing unilaterally the new  
8 terms of a collective bargaining agreement on  
9 the unions?

10 A. I would say not in a serious way.

11 Q. They certainly haven't authorized it,  
12 correct?

13 A. That's for sure.

14 Q. And have any members of management had  
15 discussions about unilaterally imposing the  
16 new conditions of employment on the unions?

17 A. In the context of the ramifications of  
18 doing so, yes we have.

19 Q. But, you've discussed the -- bringing  
20 this motion, but has anybody in management  
21 discussed the prospect of actually enforcing  
22 any order you get in this Court so as to  
23 unilaterally impose new terms of employment on  
24 the unions?

25 A. That was a Freudian slip. We have

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1 discussed.

2 Q. And did the discussions result with a  
3 decision not to do so, not to unilaterally impose  
4 new terms?

5 A. It is our desire to reach a consensual  
6 solution to continue to negotiate even if we  
7 achieve the authority under this motion.

8 Q. Is there any one in the debtors that has  
9 suggested taking the tack of imposing  
10 unilaterally the new terms of employment that  
11 may be achieved by reason of this motion?

12 MR. BUTLER: Objection. Your Honor,  
13 now I'm trying to go with the relevancy of  
14 this line of questions. It's been going on  
15 for about 15 minutes now. He now wants to  
16 know whether anyone at Delphi has ever raised  
17 the prospect of whether we would impose. Now,  
18 I don't know how that's relevant to his  
19 objection or relevant to where we are in  
20 this --

21 THE COURT: I'm sorry, I missed it.  
22 How is this question different than the last  
23 one?

24 MR. BUTLER: He asked whether any  
25 person at Delphi had ever raised whether there

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1 should be a unilateral --

2 THE COURT: Is that what you asked?

3 MR. KURTZ: Yes, I have Your Honor.

4 THE COURT: And he purpo -- well --

5 Q. Are anyone at management, to your  
6 knowledge -- has anybody -- is there anybody  
7 to your knowledge at Delphi that believes  
8 there is any possibility of unilaterally  
9 imposing the terms of employment that may be  
10 granted in connection with this motion?

11 MR. BUTLER: Objection. Again, as  
12 to relevance.

13 THE COURT: I'm not sure what you --  
14 what terms are you talking about imposing?

15 MR. KURTZ: The terms that had been  
16 requested in connection with this application.  
17 Which is to reject the CBA's but to provide  
18 certain other benefits in connection with it,  
19 including this medical, you know, COBRA  
20 supplement. And the -- obviously, the  
21 relevance, Your Honor, is that we don't  
22 believe that the debtor's can simply hit  
23 pocket their -- any authority to reject. And  
24 we wonder why this is even right to be here in  
25 Court.

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1 THE COURT: I'm not responding to  
2 the objection because I think you modified  
3 your question. I'm just trying to understand  
4 the question. The motion seeks two things.  
5 It seeks to reject the contract or contracts  
6 and to modify benefits. I thought your  
7 question was addressed to some other point  
8 than either of those two alternatives.

9 MR. KURTZ: No. I'm just trying to

10 confirm and then I will sit, that there is  
11 nobody at management, no one in the position  
12 of significance at the debtors that has any  
13 intention of enforcing the terms of any order  
14 that is obtained in connection with the  
15 application for 1113 and 1114 relief.

16 MR. BUTLER: Again, object. Look  
17 the order -- Your Honor's made it very clear,  
18 the order is to reject.

19 THE COURT: No. But that's a  
20 fair -- that's all right. That question I  
21 understand because it refers to the specific  
22 order that is being sought.

23 MR. KURTZ: Okay.

24 Q. Mr. Sheehan, is there anybody who intends  
25 to enforce the order?

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1 A. I think that as I described --

2 Q. Yes or no. Is there anyone who intends  
3 to enforce the order?

4 A. Yes.

5 Q. Who?

6 A. At a point in time, as I described  
7 already several times, there would be a point  
8 in time where we would intend to enforce.

9 Q. Are you authorized to make that  
10 determination?

11 A. I am not, today, authorized to make that  
12 determination.

13 Q. Has anybody with authority ever told you  
14 that the debtors would enforce an order

15 obtained in these proceedings unilaterally?

16 A. No.

17 Q. So you're giving us pure speculation and  
18 conjecture when you tell us under some set of  
19 circumstances you -- the debtors would enforce  
20 the order?

21 A. I'll agree with you to move on.

22 MR. KURTZ: No further questions.

23 THE COURT: Okay.

24 CROSS EXAMINATION BY

25 MR. FOX:

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1 Q. Good afternoon, Mr. Sheehan, my name is  
2 Edward Fox from Kirkpatrick and Lockhart,  
3 Nicholson Graham on behalf of Wilmington Trust  
4 Company, indenture trustee for the company's  
5 senior notes. Mr. Sheehan, in paragraph 3 of  
6 your declaration you indicate that references  
7 to the defined term "Delphi" which is Delphi  
8 Corporation in paragraph 1 include the debtors  
9 as appropriate. And by debtors you mean the  
10 42 debtors in these administratively  
11 consolidated cases, right?

12 A. As appropriate, yes.

13 Q. Okay. Now, is there any particular way  
14 of reading through your declaration to know  
15 when its appropriate to indicate which debtor  
16 or debtors your talking about? Whether its  
17 Delphi Corporation or some other entity?

18 A. Not specifically, no.

19 Q. Okay. Now can you take a look at Exhibit

20 204? Do you have Exhibit 204 in front of you,  
21 Mr. Sheehan?  
22 A. Yes, I do.  
23 Q. Okay. Now Exhibit 204 are structure  
24 charts which show the domestic U.S. entities  
25 and there's a separate chart that shows the

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1 corporate structure of the U.S./foreign entity  
2 relationships, correct?  
3 A. That's correct.  
4 Q. I'm sorry?  
5 A. That's correct.  
6 Q. Okay. And so looking at the domestic  
7 U.S. entities, shows in green on the color  
8 chart that you have there, which of the  
9 members of the Delphi family, if you will, of  
10 corporations and entities are debtors who  
11 filed cases before this Court, correct?  
12 A. Yes, that's correct.  
13 Q. Okay. Now in paragraph 6 you indicate  
14 that -- its paragraph 6 of your declaration,  
15 you state that Delphi does not report  
16 divisional financial results for its U.S.  
17 operations.  
18 A. Sorry?  
19 Q. Paragraph 6. Do you see that?  
20 A. Yes, I do.  
21 Q. When you use the word Delphi there, what  
22 Delphi are you talking about?  
23 A. Delphi and its consolidated subsidiaries.  
24 Delphi is the -- Delphi is the parent

25 corporation and we prepare our financial

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1 information on a consolidated basis under GAP.

2 Q. So you're referring to Delphi, here in  
3 paragraph 6, you're talking about Delphi on a  
4 consolidated basis, that's correct?

5 A. Yes, sir.

6 Q. Okay. Now the U.S. operations though are  
7 not run directly by Delphi Corporation,  
8 correct?

9 A. The -- Delphi is the parent company and  
10 there are -- and most of the oper -- U.S.  
11 operations are included in a subsidiary that's  
12 owned by Delphi Corporation.

13 Q. But Delphi Corporation, itself, does not  
14 directly own or operate the U.S. manufacturing  
15 operations, correct?

16 A. Not directly.

17 Q. Okay. In fact, they're owned and  
18 operated by Delphi Automotive Systems LLC,  
19 correct?

20 A. Largely, that's correct, yeah.

21 Q. Now, the manufacturing sites that you  
22 referred to in your declaration also are not  
23 owned directly by Delphi Corporation, correct?

24 A. That's correct.

25 Q. Okay. And, in fact, according to

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1 schedule A, which you filed for Delphi  
2 Corporation with the schedules and statement  
3 of affairs -- don't look yet, Delphi  
4 Corporation releases, at the time of the  
5 filing, owned no real property, correct?  
6 A. Off the top of my head, I believe that's  
7 correct.  
8 Q. I have a copy here if you'd like to  
9 refresh your recollection?  
10 A. No. If you tell me I believe you.  
11 Q. Okay.  
12 A. I believe its correct, so I trust your  
13 correct.  
14 Q. Would you like to take a look just to be  
15 sure?  
16 A. No, sir.  
17 Q. Now, in paragraph 12 of your declaration  
18 on page 5 where you say Delphi is organized  
19 into three sectors, you see that?  
20 A. Yes.  
21 Q. Again, here you're not talking about  
22 Delphi Corporation, correct?  
23 A. I'm talking about the consolidated  
24 company.  
25 Q. Okay. But these are sectors at the

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1 operating level, correct?  
2 A. That is correct.  
3 Q. Okay. So that's sectors of DAS -- Delphi  
4 Automotive Systems LLC, correct?  
5 A. Not only DAS LLC, but also -- our sectors

6 are global in nature and we're a global  
7 corporation with global subsidiaries. So  
8 these operations are more than just DAS LLC,  
9 these are operations all over the globe.  
10 Q. Okay. But within the United States --  
11 A. Uh-huh.  
12 Q. -- Delphi's operations are also in these  
13 three sectors, correct?  
14 A. That is correct.  
15 Q. Okay.  
16 A. Largely.  
17 Q. And within the United States the  
18 operations that are part of these three  
19 sectors are not directly owned or operated by  
20 Delphi Corporation, right?  
21 A. That's correct.  
22 Q. Now I just want to talk a minute about  
23 paragraph 23 of your declaration. This  
24 paragraph has a chart that lists the active  
25 manufacturing sites in the United States,

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1 correct.  
2 A. That's correct.  
3 Q. And, again, these are manufacturing sites  
4 none of which are owned directly by Delphi  
5 Corporation, correct?  
6 A. That's correct.  
7 Q. And the employees at each of these -- the  
8 unionized employees at each of the plants  
9 listed here in paragraph 23, are employed by  
10 the entity that owns the particular plant or

11 manufacturing site listed, correct?

12 A. Say that one more time for me, sorry.

13 Q. The humanized employees that work at each

14 of the manufacturing sites listed here are

15 employed by the entity that owns the plant,

16 correct?

17 A. No. I don't believe that that's accurate

18 in every situation.

19 Q. Is it accurate in some situations?

20 A. I believe that it may be in some

21 situations, yes, but not in all.

22 Q. Okay. And to the extent that it's not

23 accurate -- well, you know, let's make it

24 easier, why don't we take a look at Exhibit

25 201, if you will?

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1 THE COURT: The confidential volumes

2 don't have the exhibit numbers on them, so --

3 MR. FOX: Would you like a separate

4 copy, Your Honor.

5 THE COURT: No. Okay.

6 MR. FOX: Exhibit 201.

7 Q. Do you have that in front of you, Mr.

8 Sheehan?

9 A. Yes, I do.

10 Q. Now, you're familiar with this chart, are

11 you not?

12 A. I've seen it before, yes.

13 Q. Okay. And this chart sets forth which

14 debtor entities employ unionized employees,

15 correct?

16 A. That's correct.

17 Q. Okay. And with respect to Delphi

18 Corporation under the column headed, Directly

19 Employed Employees, the answer is no, that it

20 has no unionized employees that it directly

21 employees, correct?

22 A. With the proviso of note 5, yes.

23 Q. Okay.

24 A. I'm going to put this exhibit away?

25 Q. Well, keep the volume out because we're

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1 going to go back to the chart now for a

2 minute. In paragraph 25, you referred to

3 Delphi's non U.S. businesses, which you say

4 are generally separate legal entities. Now,

5 if you look at the structure chart which is

6 Exhibit 204. Do you have that in front of

7 you?

8 A. Yes, I do.

9 Q. Now if you take a look at the corporate

10 structure for the U.S./foreign entity

11 relationships in Exhibit 204? In color it's

12 the light and blue chart.

13 A. Yes, sir.

14 Q. Do you have that?

15 A. Yes, I do.

16 Q. Now this indicates how the ownership of

17 the foreign entities flows back to the U.S.

18 entities, correct?

19 A. Yes, sir.

20 Q. Okay. And it illustrates that Delphi

21 Corporation, through Delphi New York Holding  
22 Corporation owns 87 percent of Delphi  
23 Automotive Systems (Holdings) Inc., a Delaware  
24 Corporation, correct. All the way over on the  
25 right-hand side of the chart.

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1 A. Ask that question again, please, sorry?  
2 Q. The chart indicates that the Delphi  
3 Corporation owns a 100 percent of Delphi New  
4 York Holding Corporation, correct?  
5 A. Yes, it does. Sorry.  
6 Q. And Delphi New York Holding Corporation  
7 owns 87 percent --  
8 A. Yes, it does.  
9 Q. -- of Delphi Automotive Systems  
10 (Holdings) Inc., a Delaware Corporation,  
11 correct?  
12 A. That's correct.  
13 Q. Okay. Now Delphi Automotive Systems LLC  
14 owns the other 13 percent of that entity,  
15 right?  
16 A. That's correct.  
17 Q. Okay. Now that entity, Delphi Automotive  
18 Systems (Holdings) Inc. owns the overseas  
19 operation a 100 percent, correct?  
20 A. That is correct.  
21 Q. Okay. So through that entity, Delphi  
22 Automotive Systems Holding Inc., Delphi  
23 Corporation indirectly owns 87 percent of the  
24 foreign entities?  
25 A. Yes, sir.

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1 Q. Now do you know, off-hand -- let me back  
2 up. The debtor's have indicated that there's  
3 certain core -- certain manufacturing  
4 facilities which they've indicated are what  
5 they called core, correct?

6 A. I think we really focus more on product  
7 lines and then manufacturing facilities  
8 derived from that.

9 Q. Okay. And you set forth in a press  
10 release of March 31, which of the facilities  
11 you consider core and intended to keep,  
12 correct?

13 A. As a result of the product line  
14 decisions, yes.

15 Q. Okay. And the balance of the facilities  
16 you're either going to sell or close?

17 A. That is correct.

18 Q. I'm sorry?

19 A. That is correct, sorry.

20 Q. Now with respect to the core facilities,  
21 looking at the chart on paragraph 30, it  
22 appears that you'll have roughly 4 billion of  
23 revenue from the core facilities remaining  
24 after you sell or close the balance of the  
25 facilities, correct? And the U.S. facilities?

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1 A. I haven't done the analysis that way,  
2 but -- I haven't added them up but I'll trust

3 you.

4 Q. Do you want to take a minute to -- do you  
5 know which of the core facilities off-hand?

6 A. I would be able to do that analysis, if  
7 you say its 4 billion I'll --

8 THE COURT: I'm sorry, what  
9 paragraph are you reading?

10 MR. FOX: Paragraph 30.

11 Q. Well the core facility is Vercave and  
12 Clinton, Grand Rapids, Kokomo, Lockport,  
13 Rochester, Vandalia and Warren, correct?

14 A. I believe that's correct, yes.

15 Q. Okay. And, at least by my lawyers map,  
16 the total revenues from those facilities in  
17 2005, at least, was about 4 billion dollars.

18 A. Okay.

19 Q. Now, can you tell me what you expect your  
20 operating margin will be on that 4 billion?

21 A. Will be?

22 Q. After you -- if you impose the -- let's  
23 see what do we call it -- the competitive  
24 benchmark scenario?

25 A. As I described to the other lawyers in

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1 this case, we have not analyzed the  
2 transformation plan at a facility level.

3 Q. Well have we done it at a U.S. level?

4 A. For the overall U.S. operations, we have  
5 done that, yes.

6 Q. I'm sorry, I couldn't hear.

7 A. For the overall U.S. operations we have

8 done that, yes.

9 Q. Okay. Using the competitive benchmark  
10 scenario you've done that?

11 A. We have broken down the transformation  
12 plan between U.S. and non U.S. operations,  
13 yes.

14 Q. Is that set forth in your declaration  
15 somewhere?

16 A. No, I do not believe it is. I'd have to  
17 look, but I don't believe it is, no.

18 Q. But do you know offhand what you expect  
19 your operating margins will be for the U.S.  
20 operations if you impose the consolidated --  
21 I'm sorry the competitive benchmark scenario?

22 A. We will get to -- we will be moving  
23 towards, you know, margins comparable with our  
24 peers by the time we get to 2010.

25 Q. Well generally what do you expect those

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1 margins to be?

2 A. Six to eight percent range.

3 Q. Six to eight percent, okay. Well,  
4 looking at Exhibit M to your declaration. You  
5 show operating margins on consolidated basis,  
6 right?

7 A. That's correct.

8 Q. Okay. And you go all the way out to 2010  
9 your operating margin is only 6.6. percent on  
10 a consolidated basis?

11 A. Yes.

12 Q. Okay. Do you expect it will be higher



13 than that for the U.S. operations?

14 A. No. I think it will be by 2010 largely  
15 in the same range. Because we would be  
16 competitive at that point in time.

17 Q. Okay. And do you think it would be the  
18 same in 2008 by 5.8 percent in the U.S., or do  
19 think it will be lower?

20 A. I think it would be -- it could be lower.

21 Q. Okay. So on four billion of operating  
22 income with a 5.8 percent operating margin,  
23 you're talking about, what, 240 million of  
24 operating income from the U.S. core facilities  
25 at that point?

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1 A. I think -- the 4 billion number you're  
2 referencing is what?

3 Q. That was the --

4 A. That's a revenue --

5 Q. Total revenue release in 2005 from the  
6 core facilities?

7 A. Right. I think, yep.

8 Q. Did I do the math right?

9 A. I understand.

10 Q. I'm sorry?

11 A. I understand.

12 Q. Do you think I did the math right?

13 A. I believe you did.

14 Q. Okay.

15 MR. FOX: I'm just trying not to  
16 repeat other people's questions, Your Honor,  
17 if you can give me a moment?

18 Q. Now on page 30 in paragraph 68 of your  
19 declaration, you say that Delphi's operations  
20 are necessary for General Motors to continue  
21 operations without interruption. You see  
22 that? It's on the carry over page, page 30.

23 A. Yes, I do.

24 Q. Now, by that you mean that at least in  
25 the short term, GM can't operate if it doesn't

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1 get the ongoing supply of parts from Delphi  
2 that it uses to build its cars and trucks,  
3 right?

4 A. That's correct.

5 Q. Okay. And, at least in the short term,  
6 GM did not resource those parts and get them  
7 from another -- other vendors if Delphi were  
8 to stop supplying in the short term, right?

9 A. That is our belief.

10 Q. Okay. Do you have any reason to think  
11 your belief might be incorrect?

12 A. I am not privy to what General Motors  
13 operating personnel might be doing.

14 Q. Okay. So as far as you know, if Delphi  
15 were to either stop supplying parts or have to  
16 liquidate the U.S. operations, that would  
17 cause severe disruption to General Motors,  
18 correct?

19 A. I believe in the short run that would be  
20 a safe assumption, yes.

21 Q. Okay. When you say a short run, what  
22 period of time are you talking about?

23 A. I believe that, you know, certainly over  
24 a six-month period of time, depending upon  
25 General Motors ability to resource, that they

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1 would have difficulty running their U.S.  
2 operations.  
3 Q. Do you have any sense of how long it  
4 would take them to resource? Do you think it  
5 would be six months or do you think it would  
6 be longer?

7 A. I think it depends upon the particular  
8 part that we're discussing.

9 Q. So, there'd be a range?

10 A. I think it depends upon the -- it would  
11 definitely be a range and it also depends upon  
12 GM's -- the status of GM's considering the  
13 ability to resource.

14 Q. Well what do you -- if six months were  
15 the short end, what do you think the long end  
16 of that range would be?

17 A. I think there's a lot of factors that  
18 would go into that, so I don't know that I can  
19 speculate about that.

20 Q. Okay. Now in paragraph 81 of your  
21 declaration on page 34, you talk about finding  
22 a pension solution. Now, you say that your GM  
23 consensual scenario assumes that Delphi is  
24 able to achieve a legislative solution  
25 stretching out its pension contributions. Do

1 you have any reason to believe that such a  
2 legislative solution will be achieved?  
3 A. At the time that we put the scenarios  
4 together we had not spent significant time  
5 considering a pension solution. And we  
6 therefore, at a very minimum, believed that  
7 once the other issues had been addressed that  
8 we should be able to use a legislative  
9 solution. Since that time we've spent  
10 significant time considering this issue and  
11 how we would address it. And I think I  
12 described that we are discussing with the  
13 relevant parties how to address this issue  
14 through existing legislation.

15 Q. You talked about --

16 A. In a manner consistent with what's in the  
17 GM consensual solution in terms of stretching  
18 out.

19 Q. But I'm not sure if I heard you  
20 correctly. When you're saying you still  
21 believe that a legislative solution is  
22 possible or whether you're looking at  
23 alternate solutions that do not include  
24 legislation?

25 A. What I think I was trying to relate to

1 you is, is that certainly a legislati -- we  
2 wouldn't pursue a legislative solution if we  
3 were able to utilize existing law and achieve

4 a result which was similar to that which you  
5 see under the legislative solution. So we'd  
6 never get to that point in time.  
7 Q. Well, does Delphi believe, at this point,  
8 that it is likely to be able to achieve a  
9 legislative solution if it had no other  
10 alternative?  
11 A. We believe that it would have a chance to  
12 be successful there under certain  
13 circumstances, yes.  
14 Q. Okay. And that legislative solution I  
15 take it from the time frames you seem to be  
16 indicating, would be separate and apart from  
17 current legislation that's pending in  
18 Congress?  
19 A. I think that's part of our process. It  
20 may be as part of current legislation that's  
21 pending in Congress. It may be a separate  
22 action if that legislation was never to move  
23 forward. We explored every avenue available  
24 to us at the current time.  
25 Q. Okay. Now, Mr. Williams of Watts &

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1 Wyatt, indicated in his declaration that he  
2 assumed that if the current pension  
3 legislation were to pass, that the debtors  
4 would have an investment grade rating and  
5 therefore would not be considered at risk  
6 under the proposed legislation. Are you  
7 familiar with that?  
8 A. Generally, yes.

9 Q. Okay. And is it your view that the  
10 debtors would be able to come out of  
11 bankruptcy and have an investment grade  
12 rating?  
13 A. Obviously, yeah, that will depend upon a  
14 lot of factors that are contained in our  
15 transformation plan. But assuming for a  
16 moment, that we are able to achieve the  
17 transformation plan, we believe that we should  
18 be able to achieve an investment grade credit  
19 rating, yes.  
20 Q. Okay. The debtors have been booking new  
21 business since the bankruptcy filing took  
22 place, correct?  
23 A. Yes, sir.  
24 Q. In paragraph 94, on page 39 of your  
25 declaration, you discussed the debtor's

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1 financial condition in effect on a  
2 consolidated basis, is that correct?  
3 A. I believe that's on a consolidated basis  
4 for the debtors.  
5 Q. Okay. So when you say "when examined in  
6 the aggregate, the debtor's schedules reveal  
7 assets of approximately 16.4 billion and  
8 liabilities of 24.8 billion as of the petition  
9 date." That's on a consolidated basis among  
10 the debtors, correct.  
11 A. Yes, sir.  
12 Q. Okay. You understand, though, that  
13 absent substantive consolidation each debtor

14 entity has its own separate assets and  
15 liabilities, correct?  
16 A. Yes, I do.  
17 Q. Okay. And in order to determine any  
18 particular creditor's recovery, one would have  
19 to take a look at that -- the particular  
20 debtor entity against which it holds its claim  
21 in order to determine what the recovery would  
22 be for that particular creditor, correct?  
23 MR. BUTLER: Objection. Calls for  
24 legal conclusion.  
25 Q. To the extent you know, Mr. Sheehan?

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1 A. I was going to answer somewhat similar  
2 that I haven't been through a process like  
3 this before, but I generally understand that  
4 that's how -- when we get to a subsequent  
5 phase I'll be learning about that part.  
6 Q. Now if the debtors, to the extent that  
7 they employee unionized employees, are able to  
8 reduce their labor costs that will end up  
9 benefiting their customers, correct?  
10 A. Their customers?  
11 Q. General Motors, the OEM's --  
12 A. The company's customers. Well, I think  
13 that we need to be competitive in all aspects  
14 of our business and -- so that we need to be  
15 compe -- in order to win business we need to  
16 offer competitive pricing and we need to a  
17 valuable business enterprise.  
18 Q. Okay. So General Motors and the other

19 customers would benefit by getting lower  
20 prices for their products. Or more  
21 competitively priced products, correct?  
22 A. From that perspective, if the company  
23 wants to win business, yes.  
24 Q. Okay. Now the trade creditors that you  
25 referred to in your declaration, those are

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1 creditors at the operating entities, correct?  
2 In other words, below Delphi Corporation?  
3 A. I think that's -- you know, for the most  
4 part that's correct. I don't know that  
5 there's any trade creditors at the Delphi  
6 Corporation level.  
7 Q. Okay. So you talk in paragraph 97 of  
8 your declaration about the fact, for instance,  
9 the subordinated notes are structurally  
10 subordinated -- subordinate to the claims of  
11 trade creditors. Similarly, because of the  
12 off-shore entities, trade creditors are  
13 structurally subordinate to the senior debt in  
14 other creditors of Delphi Corporation with  
15 respect to the non-debtor entities, correct?  
16 MR. BUTLER: Objection. I think  
17 that's a legal conclusion.  
18 THE COURT: I don't think it makes  
19 any sense either. They're not creditors of  
20 the non-debtor entities, right?  
21 MR. FOX: I'm sorry, Your Honor?  
22 THE COURT: They're not creditors of  
23 the non-debtor entities.



24 MR. FOX: Well, this goes to  
25 structural -- to who's got a claim against

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1 which assets.  
2 THE COURT: Well, maybe you can re-  
3 ask that? You're using the phrase structural  
4 subordination. But you're talking about  
5 entities that they don't even have a claim  
6 against, right?  
7 MR. FOX: Well, that's in effect  
8 always the -- well, okay. I understand your  
9 point. I'll withdraw that question.  
10 Q. Now the debtor's suppliers, you indicate,  
11 had claims of approximately a billion dollars  
12 as of the petition date, correct?  
13 A. That's correct.  
14 Q. Okay. And up until the petition date, if  
15 I understand it correctly, the suppliers were  
16 being paid on a current basis and asked two  
17 terms, right?  
18 A. In the period leading up to  
19 reorganization, there was a shortening of  
20 trade terms by suppliers given the uncertainty  
21 the company was facing. But if you exclude  
22 that short period prior to filing, yes, they  
23 were generally on M&S two payment terms.  
24 Q. So you ended up being paid on M&S two  
25 terms, so they're being paid more quickly than

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1 that, right?

2 A. I'm sorry?

3 Q. They're either being paid on M&S two  
4 terms or being paid more quickly than those  
5 terms ordinarily provide for?

6 A. In the period leading up?

7 Q. Yes. That's what's -- in other words  
8 nobody was being stretched out and paid  
9 farther out, correct?

10 A. In the period leading up to  
11 reorganization, that is absolutely correct.  
12 Nobody was getting paid in longer period of  
13 time.

14 Q. Okay. But some were getting paid more  
15 quickly?

16 A. We were having to shorten payment terms  
17 in order to be able to continue to receive  
18 products from our suppliers.

19 Q. And of the one billion of claims to  
20 suppliers, I believe under the first day  
21 orders, the debtors have paid off about 212  
22 million of that amount, correct?

23 A. It's in that range. I don't know it  
24 exactly. It might be in something here, but I  
25 think it's in that range.

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1 Q. Well, if you'd like you can take a look  
2 at Exhibit's -- take a look at Exhibit 205.

3 A. That is correct.

4 Q. I'm sorry?

5 A. That is correct.

6 Q. Okay. And the debtors also, I believe,  
7 prepaid some of their suppliers before they  
8 filed for bankruptcy, correct?

9 A. In order to be able to secure -- supply  
10 the company in certain situations, was  
11 required to meet demands for advance payment.

12 Q. Okay. And then the debtors also asked  
13 this Court to approve an order in November  
14 which allowed the debtors to assume certain  
15 executory contracts which were nearing the end  
16 of their term as well, correct?

17 A. Under certain circumstances we had that  
18 authority, yes.

19 Q. Okay. And, again, that was to ensure  
20 that the debtors would be able to obtain goods  
21 and services from these vendors?

22 A. That's correct.

23 Q. Okay. Now there were approximately -- I  
24 think there were like six thousand contracts  
25 that were outstanding that were expiring as of

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1 the end of December that had to be renewed,  
2 right? Is that roughly the number?

3 A. That had to be renewed, yes.

4 Q. Okay. And of those six thousand, those  
5 were accounted for by, I believe, it was  
6 approximately a thousand or so vendors, is  
7 that right?

8 A. I believe so. I don't know the numbers  
9 specifically.

10 Q. Okay. And of that thousand or so, only,

11 I believe it's 41, actually, took advantage of  
12 the authority that the debtors were granted  
13 under that contract assumption order, correct.

14 MR. BUTLER: Objection. Relevance,  
15 Your Honor. I have no clue where we're going  
16 with this line of testimony.

17 MR. FOX: It relates directly to  
18 what the debtor's talking about in terms of  
19 concessions and how the suppliers are helping  
20 them out. It also goes to the debtor's  
21 business judgment and the way it's treating  
22 different groups of creditors. And to their  
23 business judgment, you know, understanding  
24 their own business in the way that they, you  
25 know, need to do some of the things that

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1 they're doing. I don't plan to spend much  
2 time on it, but I'd like to just get an answer  
3 for that.

4 THE COURT: I think I'm going to  
5 sustain the objection. It's too remote.

6 MR. FOX: Okay.

7 Q. Now, page 42 in paragraph 101 of your  
8 declaration, you indicate that non-creditor  
9 claims will likely receive less than 100 cents  
10 on the dollar. You see that?

11 A. Yes, sir.

12 Q. Now, you also indicated that you thought  
13 the bond claims would recover somewhere  
14 between 25 and 50 cents on the dollar?

15 A. Where are you referring to?

16 Q. Paragraph 97, the -- on page 41, the last  
17 sentence.

18 A. Yeah, I think I said that the markets  
19 interpretation of the publicly disclosed  
20 information about Delphi is that the holders  
21 of Delphi's debt securities will receive,  
22 blah, blah, blah.

23 Q. All right. Do you receive the recovery  
24 to the bond holders is going to be different  
25 than the recovery, you refer to in paragraph

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1 101, for whatever these non-priority claims  
2 are you're referring to?

3 A. I think that the whole question of  
4 recoverability for any class of creditors is a  
5 matter that will be dealt with at a later  
6 stage in this hearing.

7 Q. Let me ask in a different way. Do you  
8 believe the creditors, Delphi Automotive  
9 Systems, LLC and the subsidiaries in the  
10 organizational chart are going to receive less  
11 than 100 cents on the dollar as a result of  
12 this bankruptcy case?

13 A. I don't know.

14 Q. You indicate, here in paragraph 101, that  
15 non-priority claims will likely receive less  
16 than 100 cents on the dollar?

17 A. Recognizing the level of liabilities that  
18 this pre-petition liabilities that the company  
19 has and assets that the company has. Exactly  
20 how all of the claims will be handled within

21 each individual legal entity, I don't believe  
22 that we've progressed to a stage in this case,  
23 where I can answer that question.  
24 Q. Do you think that there are any creditors  
25 of any of the subsidiaries, direct or

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1 indirect, of Delphi Corporation that will --  
2 let me back up? Do you think there are any  
3 creditors of Delphi Automotive Systems LLC,  
4 general and secured creditors I mean, which  
5 will be paid 100 cents on the dollar as a  
6 result of the plan?

7 A. I haven't tried to analyze that question  
8 at the current time.

9 Q. Okay. Do you believe, sitting here  
10 today, that creditors of Delphi Automotive  
11 Systems, LLC will be paid in full?

12 A. I don't know.

13 Q. Okay.

14 A. I haven't analyzed that.

15 Q. Okay. Do you have any reason to think  
16 they will, though, sitting here today?

17 A. I hope everybody does. It's a --

18 Q. Well, we all hope that. But the question  
19 is do you have any reason to think, sitting  
20 here today, that that would be in fact the  
21 case?

22 A. No, I do not.

23 Q. Okay. Thank you.

24 MR. FOX: Thank you.

25 THE COURT: Okay. All right. Why

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1 don't we take a lunch break to 3:15.

2 MR. BUTLER: 3:15. Thanks. Thank

3 you, Your Honor.

4 (Proceedings concluded at 2:06 p.m.)

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## C E R T I F I C A T I O N

3

I, Esther Accardi, hereby certify that

4

the foregoing is a true and correct

5

transcription, to the best of my ability, of

6

the sound recorded proceedings submitted for



7 transcription in the matter of:

8 Delphi Corporation.

9

10 I further certify that I am not employed  
11 by nor related to any party to this action.

12

13 In witness whereof, I hereby sign this  
14 date:

15 May 26, 2006.

16

17 \_\_\_\_\_

18 Esther Accardi

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